



Deposition of:  
**Jaqueline Moline , M.D., MSc, FACP,  
FACOEM**

*February 26, 2020*

In the Matter of:  
**Zimmerman, Linda Vs. Autozone Inc.,  
Et Al.**

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 Coordinated Proceeding JCCP NO. 4674  
Special title (Rule 3.550) Case No. BC720153

4 LAOSD ASBESTOS CASES

5 LINDA ZIMMERMAN,  
6 Plaintiff,  
7 vs.  
8 AUTOZONE, INC., et al.,  
Defendants.

9 - - -

10 Telephonic Deposition of JACQUELINE MOLINE, MD,  
11 MSc, FACP, FACOEM,  
12 Taken by Meghan B. Senter,  
13 Before Jennifer D. Hamon,  
Certified Court Reporter,

14 On Wednesday, February 26, 2020,  
15 Beginning at 10:06 a.m. and ending at 1:42 p.m.

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<p>Page 2</p> <p>1 APPEARANCES OF COUNSEL  2 For the Plaintiff:  3 LEAH KAGAN  (Via Telephone)  4 Simon Greenstone Panatier Bartlett PC  Suite 540  5 3780 Kilroy Airport Way  Long Beach, CA 90806  6 562.590.3400  lkagan@sgplaw.com  7  8 For the Defendant Chanel:  9 MEGHAN B. SENTER  (Via Telephone)  10 MG+M  One Canal Place, Suite 3000  11 365 Canal Street  New Orleans, LA 70130  12 504.535.2879  msenter@mglmaw.com  13  14 For the Defendants Johnson &amp; Johnson and  Johnson &amp; Johnson Consumer Inc.:  15  16 JULIA ROMANO  (Via Telephone)  King &amp; Spalding  17 Suite 1600  633 West Fifth Street  18 Los Angeles, CA 90071  213.443.4365  jromano@kslaw.com  19  20  21  22  23  24  25 (Continued on next page)</p>	<p>Page 4</p> <p>1 INDEX TO PROCEEDINGS  2 EXAMINATION INDEX  3 JACQUELINE MOLINE, MD, MSc, FACP, FACOEM  4 Examination by Ms. Senter 5  Examination by Ms. Romano 61  5 Examination by Mr. Polchinski 107  Examination by Ms. Anderson-Thompson 130  6 Re-Examination by Ms. Senter 131  Re-Examination by Ms. Romano 133  7 Examination by Ms. Kagan 135  8 Certificate Page 142  9  10 EXHIBIT INDEX  11 Exhibits  12 Exhibit 1 J&amp;J Defendants' Notice of Deposition 6  of Plaintiff's Expert Witness Dr.  13 Jacqueline Moline and Requests for  Production of Documents  14  Exhibit 2 Depositions and Testimony 2015-2019, 6  Revised 12/19/2019  15 Exhibit 3 Curriculum Vitae 6  16 Exhibit 4 Reference List - Linda Zimmerman 6  17 Exhibit 5 Handwritten notes 6  18 Exhibit 6 Wind Rose Plot 18  19  20  21 (Original Exhibits 1 through 6 have been attached  to the original transcript.)  22  23  24 (End of Index)  25</p>
<p>Page 3</p> <p>1 For the Defendants Ralphs Grocery Company and  Thrifty Payless Inc. dba Rite Aid Pharmacy:  2  3 GABRIELLE ANDERSON-THOMPSON  (Via Telephone)  Barnes &amp; Thornburg LLP  4 Suite 300  2029 Cnetury Park East  5 Los Angeles, CA 90067  310.284.3884  gathompson@btlaw.com  6  7 For the Defendant Whittaker Clark &amp; Daniels Inc.:  8  9 REBECCA BELLOW  (Via Telephone)  Berkas Crane Robinson &amp; Seal  10 Suite 1500  515 South Figueroa  11 Los Angeles, CA 90071  213.955.1150  rbellow@bcrslaw.com  12  13 For the Defendants Revlon and Macy's:  14  15 PETER D. POLCHINSKI  (Via Telephone)  Hawkins Parnell &amp; Young LLP  16 8th Floor  600 Lexington Avenue  17 New York, NY 10022  212.897.9655  ppolchinski@hpylaw.com  18  19  20  21  22  23  24  25</p>	<p>Page 5</p> <p>1 February 26, 2020  2 10:06 a.m.  3 (Pursuant to OCGA 15-14-37 (a) and (b) a  4 written disclosure statement was submitted  5 by the court reporter to all counsel present  6 at the deposition and is attached hereto.)  7 JACQUELINE MOLINE, MD, MSc, FACP, FACOEM,  8 being first duly sworn, was examined and  9 testified as follows:  10 EXAMINATION  11 BY MS. SENTER:  12 Q Good morning, Dr. Moline. This is  13 Meghan Senter. We met via telephone just a few  14 moments ago. I think I'm going to be starting us  15 off today, and I want to cover just a little bit  16 of background. All right?  17 A Okay.  18 Q I promise I'm going to try not to be  19 redundant. I know you've done this a few times.  20 I'm not going to try and run you through  21 everything. But it's fair for me to kind of  22 dispense with the usual admonitions? You're  23 familiar with the process?  24 A Yes.  25 ---</p>

<p style="text-align: right;">Page 6</p> <p>1 (Whereupon documents were identified as  2 Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4,  3 and Exhibit 5.)  4 Q At the outset, I'd like to just go  5 ahead and mark a number of exhibits I'd like to  6 discuss for the record. The first is going to be  7 the Notice of Deposition. We'll mark that as  8 Exhibit 1.  9 The second thing I'd like to mark is  10 your list of prior testimony. We'll mark that as  11 Exhibit 2. Your CV we'll go ahead and mark as  12 Exhibit 3. And your reliance list we'll mark as  13 Exhibit 4. And because we're going to be  14 discussing them later on, we'll go ahead and mark  15 your notes as Exhibit 5.  16 MS. KAGAN: Counsel, I just want to  17 note for the record that we did submit objections  18 to the notice and that we did provide an updated  19 Madigan report that is not on the reliance list.  20 MS. SENTER: Okay. Thanks, Leah.  21 MS. KAGAN: No problem.  22 BY MS. SENTER:  23 Q Dr. Moline, when were you first  24 retained in this matter?  25 A I'm not sure of the exact date. It</p>	<p style="text-align: right;">Page 8</p> <p>1 to form your opinions?  2 MS. KAGAN: I'm going to object. If  3 you have reviewed her reference and reliance  4 list, it has specific documents identified in the  5 Zimmerman section.  6 BY MS. SENTER:  7 Q Dr. Moline?  8 A There have been a number of materials  9 that are related on the reliance list. Some of  10 them are more general, and then some of them are  11 more specific, including testing of Jean Nate and  12 testing of some of the -- Dr. Longo's testing,  13 Dr. Gordon's report, looking at some Unarco  14 materials, looking at some Chanel testing, if I  15 didn't mention that. And the rest are enumerated  16 on my report -- I mean on my reliance list.  17 Q Okay. So I know your reliance list in  18 this case is 43 pages long, so I'm just trying to  19 get a complete sense of what you reviewed  20 specifically in preparation for this case beyond  21 all 43 pages.  22 MS. KAGAN: Counsel, there's a  23 specific Zimmerman section on the reliance list  24 that identifies specific case-specific documents  25 besides the things Dr. Moline has just enumerated</p>
<p style="text-align: right;">Page 7</p> <p>1 was some point in the -- in the fall. It was --  2 hold on. Around September-ish.  3 Q Around September of 2019?  4 A That's when I first became aware of  5 it, yes. Correct.  6 Q And how were you retained? By letter?  7 By phone call? Email?  8 A I think that it would be by phone  9 call. I honestly don't recall. It definitely  10 was not by letter.  11 Q Do you know when it was that you first  12 started reviewing materials specifically for this  13 case?  14 A Well, I know it was before the  15 declaration was submitted in mid-October, so it  16 was at some point in October, I think early  17 October. And then I went back and did some  18 refinement of my notes and was given things like  19 the -- looked at the sister's deposition somewhat  20 later.  21 Q And I know we have your notes. We  22 marked them as Exhibit 5. Outside of the  23 materials listed in your notes, which are various  24 depositions and some medical records, what all  25 have you reviewed specific to this case in order</p>	<p style="text-align: right;">Page 9</p> <p>1 for you.  2 BY MS. SENTER:  3 Q That's beginning on page 25; is that  4 right, Doctor?  5 A I don't know if I have that reliance  6 list in -- I didn't bring a copy of that with me  7 into the room today, so I can't tell you what  8 page it's on.  9 Q That's fair. What do you have with  10 you in the room today?  11 A I have a copy of my notes. I actually  12 have the testing binders of the testing results  13 from Dr. Compton, Dr. Longo and his declaration,  14 some Jean Nate testing, Mr. Martin's death  15 certificate, some Unarco documents, a copy of my  16 declaration, and -- yeah. That's it.  17 Q Okay. Thank you. About how many  18 hours have you spent in preparation for this  19 case?  20 A About 15.  21 Q Are you able to break down how you've  22 spent those 15 hours?  23 A Reading and writing my notes. So I  24 can't tell you -- I don't parse it out on -- I  25 don't know how I would do that. I don't say for</p>

<p style="text-align: right;">Page 10</p> <p>1 hour 1 through hour 7.2, I reviewed the medical                  2 records, and then from 7.2 to 16.9, I reviewed                  3 the depositions. That's not how I work.                  4 Q With that many lawyers on the phone                  5 today, do you wish you could --                  6 A I'm sure they do, but I don't bill in                  7 ten-minute increments.                  8 Q Included in that 15 hours is there any                  9 time spent in preparation for today's deposition?                  10 A I spent about half an hour in                  11 preparation. I had a conversation with                  12 Ms. Kagan, which was brief in part due to the                  13 fact that Ms. Kagan couldn't speak. And that was                  14 not included.                  15 Q Have you issued any invoices in this                  16 case?                  17 A Not yet.                  18 Q What's your current rate?                  19 A It's \$600 an hour.                  20 Q Do you anticipate, other than this                  21 deposition, doing any additional work on this                  22 matter prior to trial?                  23 MS. KAGAN: Counsel, I will note for                  24 the record that we have not yet received the                  25 final materials from Dr. Roggli as to digestion</p>	<p style="text-align: right;">Page 12</p> <p>1 to answer. So could you refine that a bit?                  2 BY MS. SENTER:                  3 Q You said that you were asked to review                  4 the documents and to identify, first, whether or                  5 not Ms. Zimmerman had an asbestos-related                  6 disease; is that right?                  7 A Correct. So I would offer that she                  8 does in fact have an asbestos-related disease.                  9 Q Do you have an opinion as to what type                  10 of asbestos-related disease Ms. Zimmerman has?                  11 A I do.                  12 Q What is that?                  13 A She has malignant mesothelioma.                  14 Q And then the second portion of your                  15 scope of work that was provided was to provide an                  16 opinion as to the cause of that asbestos-related                  17 disease; is that correct?                  18 MS. KAGAN: Mischaracterizes the scope                  19 of the work, parts of it. The scope of                  20 Dr. Moline's opinions are disclosed in the 2034                  21 designation, in her notes, and reliance materials                  22 and reference list.                  23 THE WITNESS: So I was asked if in                  24 fact she -- I felt she did have an                  25 asbestos-related disease. And just to be clear,</p>
<p style="text-align: right;">Page 11</p> <p>1 or anything else that he might use and the                  2 evidence that he might offer. So to the extent                  3 that those materials are received and provided to                  4 Dr. Moline, she may review those.                  5 MS. SENTER: Understood.                  6 THE WITNESS: I don't anticipate doing                  7 additional work unless something becomes                  8 available for me to review or -- Ms. Zimmerman is                  9 still alive, so if additional medical records                  10 become available, I would review those prior to                  11 trial. But I don't have those now.                  12 BY MS. SENTER:                  13 Q When you were contacted and retained                  14 in this matter, what were you asked to do? What                  15 was your scope of work?                  16 A I was asked to review the documents                  17 and identify whether I felt Ms. Zimmerman had an                  18 asbestos-related disease and what exposures might                  19 contribute.                  20 Q In line with that scope of work, what                  21 opinions do you intend to offer at trial?                  22 MS. KAGAN: Overbroad.                  23 THE WITNESS: I mean, I'm asked                  24 questions at trial, so this is a question that,                  25 the way it's worded, is very challenging for me</p>	<p style="text-align: right;">Page 13</p> <p>1 I wasn't asked specifically in this case. This                  2 is just an ongoing understanding I have with                  3 Ms. Kagan and her firm to identify where she                  4 might have had exposure to asbestos which I went                  5 through and is incorporated in my notes.                  6 BY MS. SENTER:                  7 Q So in your notes, you've identified on                  8 multiple pages from your review of multiple                  9 depositions, correct, where you believe that                  10 Ms. Zimmerman may have had exposure to asbestos?                  11 MS. KAGAN: Mischaracterizes.                  12 THE WITNESS: My notes state what the                  13 review of the deposition said from Ms. Zimmerman                  14 and her family members' sworn testimony. So this                  15 is a description of what transpired. It's not --                  16 I believe it's what they said in the deposition                  17 transcript.                  18 BY MS. SENTER:                  19 Q What possible sources of exposure did                  20 you identify through your review of the                  21 materials?                  22 A She had exposure to cosmetic talc from                  23 a number of different manufacturers. She had a                  24 potential exposure from her stepfather. And                  25 there was a potential exposure from her two sons</p>

<p style="text-align: right;">Page 14</p> <p>1 who worked at a gas station where friction  2 materials were used.  3 Q Do you have a copy of your notes with  4 you? I believe you said you did. I just want to  5 be sure.  6 A I do.  7 Q Let's go ahead and look at those.  8 They've been marked as Exhibit 5. Aside from  9 what you've written on these papers, do you have  10 any handwritten notes or highlighting on the  11 actual depositions themselves?  12 A No.  13 Q If you could turn to page three, it  14 looks like -- I'm sorry -- page two, it looks  15 like you've noted from Ms. Zimmerman's deposition  16 that she considered Chanel to be a special treat?  17 You have that in quotations. Is that correct?  18 A Yes.  19 Q And then it looks like on page ten you  20 ran some calculations; is that right?  21 A I wouldn't call them calculations. I  22 would call them -- well, I guess they are  23 calculations. It was just basically taking how  24 many times she said she used it by how many  25 years.</p>	<p style="text-align: right;">Page 16</p> <p>1 THE WITNESS: That's correct.  2 BY MS. SENTER:  3 Q I wanted to ask about some of the  4 other materials that we were provided. And I'm  5 not sure if you have them in front of you. I  6 know you reviewed some of the Unarco documents.  7 But in the materials provided to us, there was a  8 document called a wind rose document.  9 A I'm sorry. A -- oh, a wind rose?  10 Yes.  11 Q What is that?  12 A That's a document -- hold on. Let me  13 get to it. It's wind directional plots based on  14 prevailing wind patterns that was accumulated by  15 the Illinois State Climatologic Office for  16 October 7th, 2004.  17 Q Where did you get this document?  18 A It was provided to me by Plaintiff's  19 counsel.  20 Q Did you ask for it?  21 A I didn't know such a thing existed,  22 but I asked about prevailing winds and location  23 of the plant to the family home.  24 Q Have you ever relied on a document  25 like this before?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Okay. And then from that information  2 you have determined, based on your review of the  3 depositions, approximately how many containers of  4 each type of talcum powder products that she  5 would have used? Is that fair?  6 A The container description comes  7 straight from her deposition. That's correct.  8 Q So as we're going through this, I'm  9 looking at the comparison of the calculations  10 that you ran. And if you look at Chanel, it  11 looks like the Chanel entry has the fewest number  12 of containers. Is that fair?  13 A Yes.  14 Q And then I also note that you included  15 the Unarco. That was in relation to her  16 stepfather; is that right?  17 A Correct.  18 MS. KAGAN: Foundation.  19 BY MS. SENTER:  20 Q The Unarco calculation that you ran,  21 you came to the conclusion -- I think it says  22 that there were approximately 2,607 possible  23 interactions with Ms. Zimmerman's stepfather  24 after work; is that right?  25 MS. KAGAN: Mischaracterizes.</p>	<p style="text-align: right;">Page 17</p> <p>1 A You know, I'm sure I have at some  2 point. I've certainly looked at prevailing wind  3 patterns in some of my nonlitigation work, like  4 World Trade Center related work when the wind  5 patterns and the wind flows were mapped post  6 9-11.  7 So I don't know -- I don't think I've  8 ever seen one quite as pretty as this one, but I  9 have seen prevailing wind patterns before.  10 Q It says on there that it's from  11 Station 14842. Do you see that?  12 A Yes.  13 Q Do you know where that station is?  14 A It looks like it says the Greater  15 Peoria Airport in Peoria, Illinois.  16 Q And I apologize. I'm not trying to  17 sound rude. But are you versed in climatology to  18 be able to read this plot?  19 MS. KAGAN: Objection. Argument.  20 THE WITNESS: I can read a plot. It's  21 basically describing the average wind speeds in  22 different colors and the direction of the wind.  23 That's my understanding of it. And that was the  24 only way I was looking at this.  25 I would not be qualified to develop</p>



<p style="text-align: right;">Page 18</p> <p>1 such a map, but I can look at a map and see where  2 the biggest spokes out of the radius are or of  3 the center are.  4 BY MS. SENTER:  5 Q Do you know what the input parameters  6 were to create the plot?  7 A I do not. I assume that they are wind  8 speeds that were garnered in some fashion.  9 Q Do you have any information about how  10 that wind speed was collected?  11 A I do not. I've been around enough to  12 know that there are windsocks that they collect  13 wind speed in, but I do not have any specific  14 information regarding how the data for this  15 particular plot was collected.  16 MS. SENTER: Let's go ahead and mark  17 this as Exhibit 6 since we talked about it a bit.  18 (Whereupon a document was identified  19 as Exhibit 6.)  20 BY MS. SENTER:  21 Q How did the wind rose document help to  22 form your opinions in this case?  23 A Well, I'm often asked questions if  24 there happens to be an asbestos plant to ask  25 questions related to the relative distance and</p>	<p style="text-align: right;">Page 20</p> <p>1 and say -- based on how it's described here.  2 But it doesn't specifically say what  3 the wind pattern was in 1977. It's just the data  4 from 1977 would have been included as a data  5 point to be averaged in with the other years.  6 Q So based on your understanding of the  7 document, there could be certain years where the  8 prevailing wind pattern was not necessarily away  9 from the home, and that would be included in the  10 average?  11 MS. KAGAN: Mischaracterizes. Also  12 speculation.  13 THE WITNESS: I mean, if that were the  14 case, then that would cause some skewing of the  15 average, and that would cause a blip in the  16 average that would be reflected in the plot. I  17 mean, if there was a huge wind shift in one  18 particular year, I would expect that there would  19 be some skewing of the data.  20 BY MS. SENTER:  21 Q So, for instance, if we're looking at  22 this document, I think what you're saying is you  23 see this biggest point that kind of extends out  24 and goes due south; is that right?  25 MS. KAGAN: Mischaracterizes.</p>
<p style="text-align: right;">Page 19</p> <p>1 the wind patterns related to where the home is  2 and the plant.  3 And this particular wind rose showed  4 that the prevailing winds appeared to be in the  5 opposite direction from where the home was  6 relative to the Unarco plant.  7 Q And just so we're clear, the wind rose  8 document, that talks about prevailing winds over  9 decades; right?  10 A It is -- yes.  11 Q Is it your understanding that that  12 would be an average of the speeds over decades?  13 A Correct.  14 Q But it doesn't take into account any  15 smaller time frame; is that right?  16 MS. KAGAN: Vague as to "smaller time  17 frame."  18 BY MS. SENTER:  19 Q For instance -- I can rephrase that.  20 If you were asking about a particular  21 year, that doesn't take a particular year into  22 account, does it?  23 A Not to enumerate that particular year.  24 But all the data from that year would be included  25 and averaged into -- you wouldn't take out 1977</p>	<p style="text-align: right;">Page 21</p> <p>1 THE WITNESS: That the wind comes from  2 the -- I mean, it's -- correct. It's coming from  3 the south, blowing from the south.  4 BY MS. SENTER:  5 Q So the biggest spike is wind blowing  6 from the south?  7 A Right. It says that. It says,  8 "Direction (blowing from)," in Orientation,  9 blowing from the south.  10 Q But then also if you look, there are  11 other peaks that show wind blowing from the  12 northwest or west-northwest?  13 A Well, I mean, there are other data  14 points. There -- yes. But they're not as --  15 they're not as high as the one from south to  16 north.  17 Q So based on this plot, it does show  18 wind blowing from essentially every direction.  19 It's just that the largest data point was blowing  20 from the south. Is that fair?  21 MS. KAGAN: Mischaracterizes.  22 THE WITNESS: It shows that wind  23 patterns have been at varying levels, but the  24 prevailing wind -- or the most frequent direction  25 of the wind is from the south to the north.</p>



<p style="text-align: right;">Page 22</p> <p>1 BY MS. SENTER:                  2 Q I also noted in the materials that                  3 were produced to us there were multiple local                  4 newspaper articles. Did you review those?                  5 A Can you be more specific?                  6 Q Yes. There were multiple articles                  7 from the Pantagraph Sun?                  8 A And what's the content, please?                  9 Q Did you --                  10 A I mean, I don't have -- they were                  11 sent -- some of them were sent to me                  12 electronically in a list. So are you talking                  13 about the ones where Linda was in college and her                  14 being active in college?                  15 Q I'm asking if you had reviewed them,                  16 and the follow-up would be how they informed your                  17 opinion. Because they're just listed in the                  18 reliance materials as Pantagraph newspaper                  19 articles.                  20 A Oh, it was just showing that she was                  21 really active. She was spending a lot of time at                  22 school, not at home. I can probably venture a                  23 guess that I am the only person on the phone who                  24 has actually been to Illinois State University,                  25 so I thought that was kind of cool because that's</p>	<p style="text-align: right;">Page 24</p> <p>1 for just a moment, you mentioned earlier when we                  2 were talking about potential exposures the                  3 potential exposures from Ms. Zimmerman's two sons                  4 who worked at a gas station and did mechanic                  5 work; is that right?                  6 A Correct.                  7 Q And I believe that starts on page                  8 three with the deposition of Stephen Zimmerman?                  9 A Correct.                  10 Q I note in the margin -- and I                  11 apologize. I'm just really bad with handwriting,                  12 my own included. But the writing as to Bendix,                  13 it says Bendix on the top. It's an indented                  14 section.                  15 A That's not the margin. That's                  16 actually within the body the way I take notes,                  17 but, yes, it says Bendix. It was -- I'm taking                  18 these notes as I'm reading. So he discussed the                  19 brand Bendix as the brand he recalled seeing.                  20 Q What you've written under there,                  21 "brake - cleaned," can you just read that section                  22 under Bendix for me?                  23 A It says, "brakes - cleaned everything.                  24 Scruffed up with sandpaper. Delivered brakes                  25 around 24 times. Assisted mechanic with brakes</p>
<p style="text-align: right;">Page 23</p> <p>1 actually a place that I've spent many hours.                  2 And she just had things like, you                  3 know, her wedding announcement, honors she got.                  4 But she was active in college.                  5 Q Beyond showing her activities,                  6 college, her wedding announcement, do the                  7 newspaper articles otherwise inform your opinions                  8 in this case?                  9 A They corroborated her deposition                  10 transcript and her sister's deposition transcript                  11 that she did not spend a lot of time at home when                  12 she was in college. That's the extent to which                  13 they really inform my opinion.                  14 Q So you're still relying on the                  15 deposition testimony. You just believe that the                  16 newspaper articles kind of bolster that. Is that                  17 what I'm understanding?                  18 A I'm going to rely on the sworn                  19 testimony. The fact that there are documents                  20 that were in the same time period that supplement                  21 or that corroborate what she said is always                  22 something that is helpful when someone is                  23 recalling events that occurred, you know,                  24 60 years before.                  25 Q If we could turn back to your notes</p>	<p style="text-align: right;">Page 25</p> <p>1 around twice a month. Clutch, gaskets, every                  2 several months." And the Q means every, and C                  3 means with, just in medical shorthand.                  4 Q And then, additionally, to the left of                  5 that, it says, "home - 20 car event/brakes." Is                  6 that right?                  7 A Right.                  8 Q Did you do similar calculations as you                  9 did with the talcum powder products and the                  10 Unarco exposure for potential brake exposures?                  11 A I did not.                  12 Q Was there a reason why?                  13 A In part because, during the time                  14 period that they were working, it was unclear if                  15 they were even using asbestos brakes because, at                  16 that point in time, both nonasbestos and asbestos                  17 brakes were available. Neither Mr. Zimmerman or                  18 Mr. Zimmerman knew what was actually being used.                  19 They just knew they were brakes. So I thought                  20 that was too speculative and also was --                  21 That was the main reason. It was also                  22 not -- the numbers would not have been as high                  23 just in terms of the amount of time that they did                  24 that. But that was the main reason. It was just                  25 too speculative. I wasn't even sure that they</p>

<p style="text-align: right;">Page 26</p> <p>1 were using asbestos products.</p> <p>2 Q Do you have an understanding of when</p> <p>3 asbestos-free brakes were first placed on the</p> <p>4 market?</p> <p>5 A Well, if you talk to the brake</p> <p>6 manufacturers, they'll give varying dates that</p> <p>7 some were available I believe in the '70s. I</p> <p>8 think there was a move towards nonasbestos brakes</p> <p>9 certainly in the mid-'80s.</p> <p>10 And the Zimmerman boys were working at</p> <p>11 the gas station starting -- I think the older one</p> <p>12 started in 1986, so that would have been during</p> <p>13 the transition period. So it's unclear what type</p> <p>14 of brakes they actually worked with. He didn't</p> <p>15 work with brakes per se. He might have helped</p> <p>16 the mechanics on occasion, but he wasn't the</p> <p>17 primary brake replacer.</p> <p>18 Q You noted that they cleaned everything</p> <p>19 with compressed air and that they scuffed up the</p> <p>20 brakes with sandpaper?</p> <p>21 A Correct.</p> <p>22 Q So assuming that some of the brakes</p> <p>23 that they used were in fact asbestos-containing,</p> <p>24 would you count this as a potential exposure for</p> <p>25 Ms. Zimmerman?</p>	<p style="text-align: right;">Page 28</p> <p>1 cases; correct?</p> <p>2 A Yes.</p> <p>3 Q Were you just simply not asked to do</p> <p>4 one in this case?</p> <p>5 A I was not specifically asked to do one</p> <p>6 in this case.</p> <p>7 Q And just to be clear, you said that</p> <p>8 you're not planning on doing any additional work</p> <p>9 before the trial aside from if there are</p> <p>10 additional materials that come up that you need</p> <p>11 to review. You're not planning on doing a dose</p> <p>12 estimate for use at trial. Is that fair?</p> <p>13 MS. KAGAN: Mischaracterizes.</p> <p>14 THE WITNESS: That's correct.</p> <p>15 BY MS. SENTER:</p> <p>16 Q I'm sorry. What was the answer?</p> <p>17 A I wasn't planning on doing a dose</p> <p>18 estimate based on the numbers, correct.</p> <p>19 Q Thank you. I'm looking at your</p> <p>20 case-specific materials that you reviewed and</p> <p>21 rely on, and I note there's a number of testing</p> <p>22 reports that you're relying on, including</p> <p>23 Dr. Compton and Dr. Longo.</p> <p>24 I just want to make sure. You haven't</p> <p>25 reviewed any testing of any Chanel products</p>
<p style="text-align: right;">Page 27</p> <p>1 A Well, that activity would have been an</p> <p>2 exposure for the children. The exposure</p> <p>3 Ms. Zimmerman would have had would have been from</p> <p>4 laundering her children's clothes. So it is a</p> <p>5 potential exposure.</p> <p>6 Q And would you also consider</p> <p>7 Ms. Zimmerman's stepfather's work at Unarco a</p> <p>8 potential exposure?</p> <p>9 A Yes.</p> <p>10 Q I want to ask just a little bit about</p> <p>11 the specific work that you've done. I know that</p> <p>12 we discussed your calculations on the number of</p> <p>13 containers or exposures that you kind of</p> <p>14 extrapolated out of the deposition testimony.</p> <p>15 What I haven't seen on the calculation</p> <p>16 page are any dose estimates. Have you done a</p> <p>17 dose estimate for Ms. Zimmerman in this case?</p> <p>18 A No.</p> <p>19 MS. KAGAN: Vague as to "dose</p> <p>20 estimate."</p> <p>21 THE WITNESS: The only calculations</p> <p>22 I've done are on that page, and it was simply the</p> <p>23 number of times she used the various products.</p> <p>24 BY MS. SENTER:</p> <p>25 Q You've done dose estimates in past</p>	<p style="text-align: right;">Page 29</p> <p>1 specifically from Ms. Zimmerman; is that correct?</p> <p>2 MS. KAGAN: You mean Ms. Zimmerman's</p> <p>3 own containers?</p> <p>4 MS. SENTER: Correct.</p> <p>5 THE WITNESS: I don't recall that she</p> <p>6 had any to be tested. I have not seen any</p> <p>7 testing specific to Ms. Zimmerman with respect to</p> <p>8 Chanel.</p> <p>9 BY MS. SENTER:</p> <p>10 Q I've looked through some of your past</p> <p>11 testimony to kind of eliminate some of my</p> <p>12 questions, but I wanted to confirm as well: On</p> <p>13 these tests that are bulk samples, you would need</p> <p>14 somebody to convert the bulk sample results to a</p> <p>15 fiber per cc value in order to determine whether</p> <p>16 a specific product would result in</p> <p>17 above-background exposure; is that right?</p> <p>18 MS. KAGAN: Mischaracterizes.</p> <p>19 Foundation. Argument.</p> <p>20 THE WITNESS: A bulk sample by</p> <p>21 definition is going to be upon a percentage by</p> <p>22 weight or per gram, and it would need to be</p> <p>23 converted to a volumetric exposure for fiber per</p> <p>24 cc.</p> <p>25 - - -</p>

<p style="text-align: right;">Page 30</p> <p>1 BY MS. SENTER:                  2 Q That was a yes?                  3 MS. KAGAN: Mischaracterizes. Asked                  4 and answered.                  5 THE WITNESS: I gave you a more                  6 thorough -- you need a conversion because -- and                  7 a bulk sample gives you one point of information.                  8 Then you would need to have a sense of testing                  9 for what becomes airborne.                  10 We do know from the published                  11 literature that a very small percentage by weight                  12 can lead to millions or billions of fibers. So                  13 you would need to have some type of volumetric                  14 measurement. You can't just convert what's a                  15 bulk sample to an air sample.                  16 BY MS. SENTER:                  17 Q Just to be sure that you and I are on                  18 the same page, if you had a result that showed                  19 that a sample that was tested was 0.00016 percent                  20 asbestos by weight, you wouldn't be able to tell                  21 me just from that result whether or not that                  22 would result in an above-background exposure?                  23 MS. KAGAN: Argument. Foundation.                  24 THE WITNESS: I would need additional                  25 information, and that -- so weight percent is not</p>	<p style="text-align: right;">Page 32</p> <p>1 product that was sampled would result in an                  2 exposure above background. Is that true?                  3 MS. KAGAN: Argument.                  4 THE WITNESS: If you're asking me for                  5 a particular number, I don't know how you're able                  6 to do that. I mean, it's been well described by                  7 some of the authors I mentioned, you know, Rohl                  8 and Mattenklott, in terms of the percentage of                  9 bulk samples leading to millions or billions of                  10 fibers in the air.                  11 I would not be able to give you an                  12 actual quantification. I would have to rely on                  13 others to do that.                  14 BY MS. SENTER:                  15 Q Dr. Moline, you're not a microscopist;                  16 is that correct?                  17 A I am not a microscopist.                  18 Q And you're not a material scientist?                  19 A Correct.                  20 Q So in terms of methodology employed by                  21 various experts, would you defer to experts in                  22 those fields as to whether the methodology                  23 employed was proper?                  24 MS. KAGAN: Vague as to "proper" and                  25 vague as to "experts in those fields."</p>
<p style="text-align: right;">Page 31</p> <p>1 the accurate way of measuring what becomes                  2 airborne, so I would not be able to do that.                  3 That's not something that I have done.                  4 But my understanding is it's been                  5 described as an underestimation, if you just look                  6 at the bulk sample percentage, to what becomes                  7 airborne because the individual fibers weigh so                  8 little that even a small percentage by weight can                  9 translate into a very large percentage.                  10 This has been described in the medical                  11 literature by Rohl in the '70s or by Mattenklott                  12 or the EPA. I believe also the FDA recently made                  13 a comment about that in their January statement.                  14 So sorry to give such a long-winded                  15 answer to that. But bulk samples are not -- even                  16 if it sounds like a very small percentage, are                  17 not indicative of what can be a potential                  18 airborne exposure.                  19 BY MS. SENTER:                  20 Q And I understand your testimony that                  21 you don't think it's indicative of what could                  22 become airborne. My question to you was more                  23 limited. It was just that, given those bulk                  24 sample results, you could not look at the bulk                  25 sample results and testify whether use of that</p>	<p style="text-align: right;">Page 33</p> <p>1 THE WITNESS: I'm sorry. I don't                  2 understand what you mean by methodology. The                  3 methodology of what?                  4 BY MS. SENTER:                  5 Q In terms of the testing that you're                  6 relying on, the various bulk samples and testing                  7 of specific products, if there's any question as                  8 to the validity of the methodology used on those                  9 samples, would you defer to the experts in                  10 microscopy and material science as to whether or                  11 not the methodology employed was valid or proper?                  12 MS. KAGAN: Vague as to "valid or                  13 proper" and vague as to "those experts."                  14 THE WITNESS: I would not comment on                  15 whether someone -- on the methodology apart from                  16 saying whether they described it as something                  17 that is standard and reported. But I would not                  18 comment on the specifics of how one went about                  19 doing that and how it is described.                  20 BY MS. SENTER:                  21 Q I think I saw from a past deposition                  22 that when you are considering your background                  23 levels you sometimes take into account the                  24 geographic region in which an individual was                  25 living. Is that correct?</p>

<p style="text-align: right;">Page 34</p> <p>1 MS. KAGAN: Vague. Foundation.  2 THE WITNESS: I'm not sure which  3 testimony you're referring to. I think -- the  4 EPA's most recent background levels do not  5 differentiate based on region. They just give a  6 general number.  7 I -- so I don't know how -- I don't  8 know what you're referring to so I can comment on  9 what you're specifically referring to. In the  10 past, there have been differentiation between  11 rural and urban, but not with more recent  12 calculations.  13 BY MS. SENTER:  14 Q What number do you use for background?  15 A 0.00001 fibers per cc.  16 Q And is it fair for me to assume that  17 that's across the board you use that?  18 MS. KAGAN: Vague as to "across the  19 board."  20 THE WITNESS: If you're referring to  21 that's what the US description has been by the  22 EPA, yes.  23 BY MS. SENTER:  24 Q So although in the past there's been  25 differentiation between urban and rural, you're</p>	<p style="text-align: right;">Page 36</p> <p>1 you are, I can take a break and go get it.  2 Q I don't plan to ask you about specific  3 pages and lines, no.  4 A Okay. Fine. We can go for a little  5 bit more before a break.  6 Q Okay. Who were your coauthors on that  7 paper?  8 A You're testing my memory here.  9 Kristin Bevilacqua, Maya Alexandri, and Ronald  10 Gordon.  11 Q And how did each of those individuals  12 come to be one of the coauthors?  13 A Maya Alexandri, despite having a law  14 degree, is a medical student who's spent time  15 working with me doing electives, so she got  16 involved in the paper that way. Kristin  17 Bevilacqua was a former research coordinator and  18 expressed an interest in working with me on the  19 paper.  20 And Dr. Gordon is a colleague of mine  21 from my years at Mount Sinai who we had discussed  22 doing a joint paper where he had done fiber  23 analyses and I had done some more clinical  24 components of the paper.  25 Q That kind of touched on the next area</p>
<p style="text-align: right;">Page 35</p> <p>1 not making that differentiation in your use of a  2 background number?  3 A I'm using the more recent number which  4 does not differentiate. In the past, I have  5 described the ATSDR which made some  6 differentiation between rural and urban. And I  7 can tell you that Bloomington and Normal,  8 Illinois, are not urban.  9 Q I've driven through. I'm familiar.  10 In order for an exposure to be  11 considered significant in your estimation, do you  12 ascribe any certain amount above background that  13 it needs to be?  14 A I haven't given an absolute number. I  15 said it has to be an order of magnitude or more  16 above background.  17 Q All right. Dr. Moline, I'm going to  18 ask you some questions about your paper that you  19 recently authored, Mesothelioma Associated with  20 the use of Cosmetic Talc. Okay?  21 We've been going for close to an hour.  22 We're going to switch topics. So if you'd like  23 to take a break, that's fine.  24 A Are you going to ask me specific pages  25 and lines? Because I don't have it with me. If</p>	<p style="text-align: right;">Page 37</p> <p>1 that I wanted to ask you about, which was the  2 role of each of the coauthors in putting together  3 the paper. If you could tell me what Kristin  4 Bevilacqua --  5 A Correct.  6 Q What was Kristin's role in --  7 A She assisted in formatting, helping  8 with the references. She and I worked together  9 on the -- some of the introduction and  10 conclusion, particularly with respect to  11 references. I wrote up the cases. She helped  12 put the tables together -- or Table 1 together, I  13 believe. She did the more administrative stuff  14 for the paper.  15 Q Other than the formatting and  16 references, the work on the intro and conclusion,  17 putting together the table, is there anything  18 else that Kristin did?  19 A It's challenging to discuss this in a  20 way because it was a collaborative process as we  21 worked on the various sections. But, obviously,  22 she didn't do the testing or the testing protocol  23 or the descriptions. We all worked on editing it  24 to make sure that the language made sense, and so  25 there was more sections than that. And it was</p>

<p style="text-align: right;">Page 38</p> <p>1 a -- it was very much a collaborative process.</p> <p>2 Q I appreciate that. And to the extent</p> <p>3 that you can't parse it out, I understand. I'm</p> <p>4 just asking for what you can.</p> <p>5 A Yeah. I mean, we were partners in</p> <p>6 this, and she and I worked on the -- she's not a</p> <p>7 clinician, so I worked on the more clinical</p> <p>8 elements of it. But we worked on the other</p> <p>9 aspects together.</p> <p>10 Q How about Maya? What was her role in</p> <p>11 helping put together your paper?</p> <p>12 A Maya's role was to work on assisting</p> <p>13 with some of the initial documents and trying to</p> <p>14 make the -- some of the information from</p> <p>15 Dr. Gordon fit in more with the clinical aspects</p> <p>16 of the paper, and she spent more time working on</p> <p>17 that section on making it into something that</p> <p>18 would be more relevant to the journal's</p> <p>19 readership.</p> <p>20 So that was more her role also to do</p> <p>21 editing or a reading through to make sure it was</p> <p>22 all logical. She assisted me when we were coming</p> <p>23 up with the other -- figuring out how to come up</p> <p>24 with the other tables.</p> <p>25 Let me rephrase that. It's not like</p>	<p style="text-align: right;">Page 40</p> <p>1 numbers because she had not done the</p> <p>2 measurements, but it was more making it into a</p> <p>3 unified theme.</p> <p>4 Q Do you have the initial data or</p> <p>5 information that you received from Dr. Gordon in</p> <p>6 the original form before it was somewhat -- I</p> <p>7 don't want to say changed because I'm not trying</p> <p>8 to misrepresent it -- but before it was tailored</p> <p>9 to fit in with the clinical aspects?</p> <p>10 A Are you asking if I have the initial</p> <p>11 part that he wrote up as a draft to include in</p> <p>12 the paper? Is that what you're asking me?</p> <p>13 Q Yes. Did you retain that in its</p> <p>14 original format?</p> <p>15 A I don't know if I still have it. It</p> <p>16 was basically work that's been rewritten. I</p> <p>17 don't know if I actually have that.</p> <p>18 Q Do you know how you received it?</p> <p>19 A I don't know if he sent it</p> <p>20 electronically or if it was sent by hard copy. I</p> <p>21 don't remember. This was about two-and-a-half</p> <p>22 years ago that initially it was started.</p> <p>23 Q Which journal did you eventually</p> <p>24 submit this article to?</p> <p>25 A It was submitted only to one journal,</p>
<p style="text-align: right;">Page 39</p> <p>1 we came up with the other tables. It was how we</p> <p>2 could best present the data in the tables.</p> <p>3 Q And Dr. Gordon, what was his role in</p> <p>4 the drafting of this article?</p> <p>5 A So Dr. Gordon did the testing of the</p> <p>6 tissue that was included. He also provided</p> <p>7 information regarding the controls and the</p> <p>8 information related to the controls that he had</p> <p>9 gathered in his laboratory, the methods how he</p> <p>10 did the actual testing for asbestos. So any of</p> <p>11 the fiber testing he would have done as described</p> <p>12 in the paper.</p> <p>13 Obviously, we all worked on making</p> <p>14 sure it was written in a way that seemed to flow.</p> <p>15 Q You mentioned a moment ago that Maya</p> <p>16 assisted in making the documents or the</p> <p>17 information received from Dr. Gordon fit in with</p> <p>18 the clinical aspects. What did you mean by that?</p> <p>19 A The way an electron microscopist might</p> <p>20 write something is not the same way as a</p> <p>21 clinician for a clinical journal might write</p> <p>22 something, so -- and also how the data were</p> <p>23 presented, it was basically to work on making it</p> <p>24 so that it was a more cohesive paper.</p> <p>25 Obviously, she did not touch the</p>	<p style="text-align: right;">Page 41</p> <p>1 and that was the one it was published in. Do you</p> <p>2 need the name of that, or can you read that from</p> <p>3 the bottom of the journal?</p> <p>4 Q I can read it. I was just for clarity</p> <p>5 of the record asking you the --</p> <p>6 A It's the Journal of Occupational and</p> <p>7 Environmental Medicine. The way your question</p> <p>8 was worded is it could have been submitted</p> <p>9 somewhere else and rejected, but it was not.</p> <p>10 Q I apologize. I didn't mean to imply</p> <p>11 that. I was just asking which journal you</p> <p>12 submitted to. And that was the only journal you</p> <p>13 submitted to, which you just named here; correct?</p> <p>14 A Correct.</p> <p>15 Q And it was published?</p> <p>16 A Correct.</p> <p>17 Q After you had submitted, did the -- it</p> <p>18 was peer reviewed by a panel; correct?</p> <p>19 A It was peer reviewed and -- yes. I</p> <p>20 don't know who reviewed it. But, yes, it was</p> <p>21 peer reviewed.</p> <p>22 Q Did you receive any comments during</p> <p>23 the peer review process of any revisions that</p> <p>24 they would like for you to make?</p> <p>25 A Yes.</p>



<p style="text-align: right;">Page 42</p> <p>1 Q Do you recall what the substance of              2 those comments were?              3 A Some of it was they wanted us to take              4 out some of the initial -- what we had initially              5 submitted was -- there was some quotation in some              6 of the introduction to the conclusion. They              7 asked that we add a line about whether there was              8 any genetic testing, which we did.              9 There was a -- some clarifications I              10 think on the tables. There were some minor              11 changes. It was nothing that was not --              12 obviously, it was nothing that prevented it from              13 being published. It was a very constructive              14 review in terms of making it clearer to the              15 reader.              16 Q Understood. I assume that you made              17 those revisions; is that right?              18 A When we were able to, yes. I mean,              19 sometimes the reviewer will suggest things that              20 are not possible to do, and you note that it's              21 not possible to do it. But in general, one tries              22 to be responsive to the reviewers' requests.              23 Q Do you recall any specific request              24 made by the reviewers on this article that you              25 were unable to make?</p>	<p style="text-align: right;">Page 44</p> <p>1 correct?              2 A Correct.              3 Q And because you were a retained expert              4 on each of those 33 cases associated with the              5 paper, you do have a way of identifying each of              6 the 33 individuals described within your              7 published paper; right?              8 A I personally -- yes. I have a way of              9 identifying who is patient 1 or who is patient              10 33.              11 Q And for reasons that you can explain,              12 you will not provide the listing or any              13 information about which specific individual is              14 associated with any given case; correct?              15 MS. KAGAN: I'm sorry. Can you reask              16 the first part of the question? For reasons she              17 can or cannot explain?              18 MS. SENTER: Can.              19 BY MS. SENTER:              20 Q For reasons that Dr. Moline can state              21 in response to my question, Dr. Moline will not              22 identify the specific individuals that are the              23 subject of your paper; correct?              24 A I will not name names in this              25 deposition. That is correct.</p>
<p style="text-align: right;">Page 43</p> <p>1 A No.              2 Q As we go forward, I am 99 percent sure              3 that I know your answers to these questions. I              4 just have to ask them for the record. You have a              5 key for the 33 cases that are included in your              6 paper that associates those 33 cases with              7 specific plaintiffs in talc litigation; is that              8 right?              9 MS. KAGAN: Foundation, vague, and              10 argument as to "you have a fee."              11 THE WITNESS: Are you asking me if I              12 have a way of associating who is who with what's              13 described in the paper?              14 BY MS. SENTER:              15 Q Yes.              16 A Yes. I mean, I don't know if I would              17 call it a key, but yes.              18 Q So the paper talks about 33 different              19 individuals, and those were all -- those              20 individuals were all plaintiffs in litigation;              21 correct?              22 A Yes.              23 Q And for each of those 33 individuals,              24 you have been hired or retained to provide an              25 opinion in association with their litigation;</p>	<p style="text-align: right;">Page 45</p> <p>1 Q And what is the reason that you have              2 that you will not give the identities of the              3 individuals who were used in this paper?              4 A I'm following -- the paper was              5 submitted for IRB approval, Institutional Review              6 Board approval. I was -- it's to protect the              7 privacy of the individuals who we included in the              8 paper with their data in a way that it's not              9 identified in some fashion so that people can't              10 go knocking on their doors or sending them nasty              11 tweets.              12 Q When you submitted for IRB approval,              13 was the approval granted conditionally upon the              14 individuals remaining anonymous?              15 A We described that -- how we would be              16 describing the individuals, and we said that no              17 names would be included in the paper. So to that              18 extent, yes.              19 Q Would it have been possible to submit              20 the scope of this project for IRB approval              21 without the anonymity that you specified in              22 your --              23 A I don't know. I've never tried that.              24 It's never been my practice in any of the 70 or              25 80 papers that I've published to ever include</p>

<p style="text-align: right;">Page 46</p> <p>1 someone's name. I would never -- I don't know if  2 IRB would approve it. I've never even tried or  3 have heard of that.  4 And I honestly don't think I've seen a  5 paper, reading thousands of papers, that  6 specifically had someone's name in a scientific  7 journal article.  8 Q To be clear, I'm not asking whether or  9 not you could write a paper specifically  10 identifying each individual. I'm simply asking  11 whether or not maintaining the anonymity of  12 individuals who were involved in litigation  13 outside the context of the paper was required.  14 A That was how we submitted it with the  15 understanding that we would be doing it, and  16 that's how it was approved.  17 Q Now, the 33 cases that are included in  18 your paper, you had already reviewed those cases  19 in the context of litigation; correct?  20 A Yes.  21 MS. KAGAN: Asked and answered.  22 BY MS. SENTER:  23 Q And Dr. Gordon submitted his tissue  24 digestion results in six cases; is that right?  25 A Correct.</p>	<p style="text-align: right;">Page 48</p> <p>1 had his tissue digestion, there also could have  2 been tissue digestion done by another retained  3 expert. Is that fair?  4 MS. KAGAN: Vague.  5 THE WITNESS: I have no way of knowing  6 that. I don't know. There could have been.  7 BY MS. SENTER:  8 Q And you didn't go back to those  9 specific cases, the six specific cases, to look  10 and see if there were additional tissue  11 digestions done by other experts; is that right?  12 A I did not specifically do that as I  13 was writing a paper with Dr. Gordon's results. I  14 was writing a paper with Dr. Gordon's results, so  15 I was going forward using those data points and  16 those tissue digestions that matched with the  17 cases I had also reviewed.  18 Q So if another analyst or another  19 expert in one of those six cases had found  20 something different than Dr. Gordon, that's not  21 reflected in your article. Is that fair?  22 A That was not the focus, but it would  23 not have been reflected. That's correct.  24 Q So the other 27 cases, same thing? If  25 there was tissue digestion done either by a</p>
<p style="text-align: right;">Page 47</p> <p>1 Q And those six cases were ones that you  2 had also been retained as an expert in  3 litigation?  4 A Correct.  5 Q Now, there's a note in the article  6 about the six cases with the tissue digestion.  7 There may have been additional digestion done by  8 another analyst; is that right?  9 A There may have been other digestions  10 done by others. And I honestly don't recall  11 because, as we were writing the paper, I realized  12 that it becomes repetitive in a sense to give  13 multiple case histories that are going to be  14 very, very similar.  15 So there was a note in there to say  16 that it wasn't -- these were six cases that one  17 person had done that I had also reviewed. There  18 might have been other tissue testing done by  19 others in some of the other 27 cases that were  20 not included. It wasn't to say that these were  21 the only cases that had tissue testing.  22 But, initially, when we started doing  23 the paper, he had these six that we had in  24 common, and that's what we went forward with.  25 Q And within those six that Dr. Gordon</p>	<p style="text-align: right;">Page 49</p> <p>1 plaintiff expert or a defense expert, those  2 results are not reflected in the paper; right?  3 That's why you included that disclaimer?  4 A Right. We didn't go into tissue  5 digestion for the other 27. That's correct.  6 Q And then my understanding is the 33 --  7 the number of 33 that you selected was kind of an  8 homage or a historical nod; correct? That's why  9 you picked the number 33?  10 A Correct. In 1960, the connection  11 between mesothelioma and asbestos was based on  12 33. And if you studied my CV well enough to know  13 what my college major was, you know that things  14 like this are important to me.  15 Q I just wanted to be clear that it was  16 important to you for that reason and there wasn't  17 any particular statistical significance to  18 choosing 33 cases; is that right?  19 A Well, there's no statistics in this  20 paper, so there's no -- so it was basically done  21 because of the historical reference to this big  22 ah-hah moment in the world of medicine saying  23 asbestos is associated with mesothelioma even  24 though it had been described before.  25 But this was really where everyone</p>



<p style="text-align: right;">Page 50</p> <p>1 started making the connection. And I similarly                  2 hoped that people in the medical community would                  3 understand that this is a potential source of                  4 asbestos exposure and have their similar ah-hah                  5 moments going forward when they are evaluating                  6 patients.                  7 Q And my understanding is that in                  8 selecting those 33 cases, you specifically didn't                  9 include any cases where there was a potential                  10 alternative exposure; is that right?                  11 A To the best of my ability based on the                  12 information I have, that is correct.                  13 Q So, for instance, if you were writing                  14 that same paper now, you would not include                  15 Ms. Zimmerman in the paper; right?                  16 A Right. Ms. Zimmerman would not be the                  17 type of person I would include because she has                  18 potential alternative exposure, which is why I                  19 have -- obviously, I have evaluated more than 33                  20 individuals who had cosmetic talc exposure. Some                  21 of them have additional exposures as well.                  22 But for the purposes of the paper, I                  23 was trying to keep it, so to speak, clean and try                  24 to identify folks for whom no other identifiable                  25 source was apparent.</p>	<p style="text-align: right;">Page 52</p> <p>1 deposition transcripts and the questions they                  2 were asked.                  3 Q And so that would be information that                  4 you had available at the time that you would have                  5 written your report in any one of those                  6 underlying cases; correct?                  7 MS. KAGAN: Mischaracterizes.                  8 Foundation.                  9 THE WITNESS: In any one of the                  10 underlying suits? I would have been writing my                  11 report based on information provided to me at the                  12 time I was provided with the information,                  13 correct.                  14 BY MS. SENTER:                  15 Q And I guess I asked it inartfully.                  16 But the information that is included in your                  17 article is the same as the information you had                  18 available to you at the time that you authored                  19 your report in the underlying litigation;                  20 correct?                  21 MS. KAGAN: Mischaracterizes as to                  22 "report." As you know, in California, you aren't                  23 under report requirements.                  24 THE WITNESS: So it would have been                  25 based on if a report was done and the data were</p>
<p style="text-align: right;">Page 51</p> <p>1 Q Now, I know that that analysis of                  2 whether or not there were additional exposures                  3 came primarily from the sworn testimony in the                  4 case that -- the underlying case; correct?                  5 A You said case in the singular. Did                  6 you mean --                  7 Q Sorry.                  8 A I don't know what you're referring to                  9 since there were 33 people described.                  10 Q Right. So, for instance,                  11 hypothetically, since I know we're not discussing                  12 the specific names of any individual, but for                  13 individual number one that's included in your                  14 paper, the analysis as to whether or not there                  15 were alternative exposures would come from review                  16 of the sworn testimony in the litigation that had                  17 been filed by individual number one; correct?                  18 MS. HAGAN: Mischaracterizes.                  19 THE WITNESS: Any sworn testimony that                  20 was available; any family member, coworker,                  21 cohabitant depositions that were available. In                  22 some instances, I did actually also interview the                  23 folks. That wasn't delineated because it was --                  24 didn't change materially the exposures. But it                  25 would have come for the most part from their</p>	<p style="text-align: right;">Page 53</p> <p>1 compiled or based on notes that were done in                  2 preparation for a particular case for litigation.                  3 BY MS. SENTER:                  4 Q Did you ever do, in association with                  5 drafting your paper, any additional investigation                  6 specific to the authorship of the paper?                  7 A I have no idea what you're asking me.                  8 I don't know what you mean specifically related                  9 to authorship of the paper.                  10 Q Did you ever go back to look and see                  11 whether there had been alternative exposure                  12 testimony that you didn't have at the time you                  13 came to your opinions in the underlying                  14 litigation?                  15 MS. KAGAN: Vague. Foundation.                  16 THE WITNESS: I don't recall that                  17 occurring. I do know that any time we had any                  18 question about if there would be an alternate                  19 exposure, we excluded them. But I don't know at                  20 what point that would have arisen.                  21 BY MS. SENTER:                  22 Q You don't know at what point what                  23 would have arisen?                  24 A If I had additional information that                  25 led to the information that there might be</p>

<p style="text-align: right;">Page 54</p> <p>1 alternate exposures prior to submitting the                  2 report, then I would have substituted another                  3 individual who had no known alternate exposure.                  4 I don't recall that happening. I know                  5 that there were -- as we were preparing to submit                  6 the paper, there were one or two folks that                  7 realized there was a possibility, and we actually                  8 took them out and substituted in someone else.                  9 Q With those one or two folks that you                  10 realized there was a possibility, what suddenly                  11 clued you in to that possibility of alternative                  12 exposure?                  13 A I think it was going back in through                  14 just reviewing the reports or the notes or the                  15 records and seeing -- just to make sure that                  16 there were no potential alternate exposures. I                  17 don't recall that there had been any exposures                  18 that had been raised in other settings that were                  19 real that caused me to remove somebody from the                  20 paper.                  21 Q For any of the 33 cases that you                  22 included in your article, did you review any of                  23 the expert -- the defense expert reports in those                  24 cases?                  25 A In preparation for the manuscript, no.</p>	<p style="text-align: right;">Page 56</p> <p>1 So often I'm confronted with questions                  2 about whether I considered something that would                  3 not be based on my medical training or                  4 information that was available to show that there                  5 was a potential exposure, that it was an actual                  6 exposure an individual suffered.                  7 Q So it's based on your training and the                  8 information that you had available to you when                  9 you reached your opinion as to whether or not a                  10 potential exposure is hypothetical or real?                  11 A The information in my paper was based                  12 on the information I had at hand. What I was                  13 discussing was being asked questions about                  14 hypothetical exposures for which I had never been                  15 provided with any documented evidence of exposure                  16 or potential exposure and asked questions about                  17 that.                  18 So I'm trying to make a                  19 differentiation between what I had in hand and                  20 based on my training with somebody trying to                  21 hypothesize that a potential exposure came                  22 because of a particular scenario.                  23 Q I guess this is a little bit difficult                  24 because we're trying to fit it all to a specific                  25 schedule and not have concrete examples. But in</p>
<p style="text-align: right;">Page 55</p> <p>1 In general, I don't read defense expert reports.                  2 I'm not provided them. I specifically did not                  3 read defense expert reports in preparation of my                  4 paper.                  5 Q Did you ever go back and ask for the                  6 defense expert reports to see whether or not                  7 there was additional information that you would                  8 consider noteworthy before drafting your                  9 manuscript?                  10 A I did not.                  11 Q You specified a moment ago real                  12 exposure. Is that an assessment that you make as                  13 to whether or not the exposure is real?                  14 A Well, I'm often asked hypothetical                  15 exposures that would be if someone lived in a                  16 city that had a plant that was five miles away                  17 that has -- that has no evidence that an                  18 individual has actual exposure but might live in                  19 a town that has a plant five miles away that has                  20 historically made asbestos products even though                  21 they don't know what was actually done in the                  22 plant and asked if that was a potential alternate                  23 exposure when I had no information that that was                  24 actually what I would call a real exposure.                  25 That's what I was referring to.</p>	<p style="text-align: right;">Page 57</p> <p>1 terms of these 33 cases included in your paper,                  2 do you recall whether there were any hypothetical                  3 potential exposures that you deemed not real and                  4 so not a reason to exclude that case from your                  5 manuscript?                  6 MS. KAGAN: Overbroad.                  7 THE WITNESS: I have no recollection                  8 of those particular scenarios for any of the                  9 cases that I included in the paper. I was                  10 speaking more broadly. But I have no specific                  11 recollection.                  12 BY MS. SENTER:                  13 Q Did you ever go back and review any                  14 sort of trial testimony from any of the 33 cases                  15 to see whether there were additional developments                  16 regarding potential exposures?                  17 A You're assuming that --                  18 MS. KAGAN: Vague. Overbroad.                  19 A -- it actually went to trial. So                  20 there may not be trial testimony in these                  21 33 cases. I did not go back -- with that caveat                  22 that I know I have not testified in all of those                  23 33 cases or that they went to trial, I have not                  24 gone back to read trial testimony.                  25 BY MS. SENTER:</p>

<p style="text-align: right;">Page 58</p> <p>1 Q Let's start there. Did any of the                  2 33 cases go to trial?                  3 A I'm not going to discuss that.                  4 Q If you're not going to tell me whether                  5 or not they went to trial, I assume you're not                  6 going to tell me whether or not you testified at                  7 trial for any of those 33 cases. Is that fair?                  8 A That is fair. One can surmise if I                  9 was asked to be an expert and a case went to                  10 trial that I might have been asked to testify.                  11 But I can't tell you which cases I testified in.                  12 I don't recall which cases I testified in. I                  13 don't have the names, so I can't go through it                  14 and -- as I sit here right now in this empty                  15 conference room, nor would I tell you that anyway                  16 because that would be too much information.                  17 Q So, hypothetically, since we're not                  18 discussing a specific case, if at trial it came                  19 out that there were other alternative exposures                  20 which were unknown at the time of your report in                  21 a case, you wouldn't include that information in                  22 drafting your manuscript?                  23 A If there was additional information                  24 that came out after my manuscript had been                  25 submitted or drafted, I would not have included</p>	<p style="text-align: right;">Page 60</p> <p>1 (Proceedings in recess, 11:29 a.m. to                  2 11:35 a.m.)                  3 BY MS. SENTER:                  4 Q Dr. Moline, I looked through my notes.                  5 I think I have maybe one or two more questions                  6 for you. And, again, I think I know the answers                  7 because you said you didn't review defense                  8 reports. But on your reliance list of all the                  9 testing that you reviewed, I don't see any                  10 product testing done by Alan Segrave. Is that                  11 correct?                  12 A Oh, I looked at the wrong list here.                  13 I don't know if -- is there a date? I don't see                  14 any. I don't recall anything specific to                  15 Segrave. I know that there have been some                  16 questions about his testing, but I didn't put                  17 anything specific on my reliance list related to                  18 him.                  19 Q Have you ever reviewed any testing of                  20 any Chanel product done by Alan Segrave?                  21 A Not that I recall.                  22 Q To the extent that Mr. Segrave's                  23 testing differs, the results of his testing                  24 differ from Dr. Compton's or Dr. Longo's, you                  25 haven't reviewed that in the formation of your</p>
<p style="text-align: right;">Page 59</p> <p>1 that in my manuscript. That is correct.                  2 Q And I'm not talking about after your                  3 manuscript had been drafted. I'm talking about,                  4 in a hypothetical scenario that one of the cases                  5 included went to trial and you testified, if                  6 there was subsequent testimony that showed an                  7 alternative exposure, you didn't review that                  8 testimony so you don't account for that                  9 alternative exposure in whether or not that                  10 person should have been included in your                  11 manuscript; right?                  12 MS. KAGAN: I'm going to object                  13 because it's vague, argument, calls for                  14 speculation, incomplete hypothetical,                  15 mischaracterizes.                  16 THE WITNESS: I didn't read any trial                  17 testimony at any point in relation to this                  18 article, so I didn't review any of that, and it                  19 would not have been included in the manuscript.                  20 BY MS. SENTER:                  21 Q I'm going to look over my notes, and                  22 then I might have one or two other questions.                  23 This would probably be a good time for a break if                  24 you'd like to take one, Doctor.                  25 A That would be great. Thank you.</p>	<p style="text-align: right;">Page 61</p> <p>1 opinions; correct?                  2 A I don't recall seeing Dr. -- or                  3 Mr. Segrave. I don't think he's a doctor. I                  4 don't think he has a Ph.D. I don't recall                  5 reviewing Mr. Segrave specifically with respect                  6 to Chanel. That's correct.                  7 MS. SENTER: Thank you very much. If                  8 I have follow-ups, I'll jump in, but I'm going to                  9 go ahead and let somebody else ask some questions                  10 now. Thank you for your time, Dr. Moline.                  11 THE WITNESS: You're welcome.                  12 EXAMINATION                  13 BY MS. ROMANO:                  14 Q Hey, Dr. Moline. It's Julia Romano.                  15 A Hi.                  16 Q Hi. Let me run through some questions                  17 with you. Then I'll hand you over to someone                  18 else.                  19 You're not one of Ms. Zimmerman's                  20 treating doctors; right?                  21 A I am not.                  22 Q And you've not been involved in any of                  23 her diagnosis, treatment, or care?                  24 A Correct.                  25 Q It's my understanding from your</p>

<p style="text-align: right;">Page 62</p> <p>1 previous testimony and from reviewing your notes  2 that you have not personally met with or spoken  3 to Ms. Zimmerman. Is that fair?  4 A Correct.  5 Q In other words, you have not taken an  6 exposure history from her directly, but, instead,  7 you're relying on her deposition?  8 A Her deposition, her sister's  9 deposition, her son's deposition, and her other  10 son's deposition.  11 Q Got it. Thank you. Have you ever  12 spoken with anyone in Ms. Zimmerman's family or  13 any of her doctors?  14 A No.  15 Q Is it still true that all of your  16 testimony in asbestos cases has been on behalf of  17 plaintiffs?  18 A Yes.  19 Q And is it still your opinion that talc  20 itself without asbestos is not a cause of  21 mesothelioma?  22 A I don't have enough information that  23 would make me change that opinion at this time.  24 Q And so you would agree if the  25 Johnson's baby powder that Ms. Zimmerman used did</p>	<p style="text-align: right;">Page 64</p> <p>1 was a potential exposure from laundering her  2 sons' clothes if they were in fact working with  3 asbestos-containing brake or friction products;  4 is that right?  5 A Right. She wasn't doing brake  6 changes, and she wasn't assisting her --  7 Can someone mute or do something? I'm  8 pausing not for effect. All of a sudden, there's  9 a lot of feedback, and I don't know --  10 Q I'm hearing it too.  11 A It sounds like someone's having a  12 conversation in the background.  13 So with respect to the sons, she did  14 not -- they did not describe that she actually  15 assisted them, so it would have only come from  16 laundering their clothes.  17 Q So in your opinion, if her sons were  18 working with asbestos-containing friction  19 materials, then Ms. Zimmerman would have been  20 exposed to asbestos from that work via laundering  21 their clothes?  22 MS. KAGAN: Incomplete hypothetical.  23 THE WITNESS: If he was exposed to  24 asbestos from the automotive work and -- then she  25 would have had a -- and it was on his clothes and</p>
<p style="text-align: right;">Page 63</p> <p>1 not contain asbestos then it did not cause or  2 contribute to her mesothelioma. Fair?  3 A Correct.  4 Q And, hypothetically, if Ms. Zimmerman  5 was exposed to asbestos from Johnson's baby  6 powder but that exposure was at or below  7 background level, then would you agree it did not  8 cause or contribute to her mesothelioma?  9 MS. KAGAN: Vague as to "background  10 level."  11 THE WITNESS: Correct.  12 BY MS. SENTER:  13 Q Now, at the beginning of your  14 deposition, you said, I believe, that  15 Ms. Zimmerman had exposure to asbestos or -- had  16 exposure to asbestos from three sources or  17 potential sources: the various cosmetic talc  18 products she used, a potential exposure from her  19 stepdad's work, and then potential exposure from  20 her sons' work with automotive friction products;  21 is that right?  22 A Correct.  23 Q And I think with respect to the  24 potential exposure from her sons' automotive  25 friction work, you told us that you believe that</p>	<p style="text-align: right;">Page 65</p> <p>1 she laundered the clothes, that's a potential  2 exposure.  3 BY MS. ROMANO:  4 Q And if she was not exposed to asbestos  5 from laundering her sons' clothes, would you  6 consider that a substantial contributing factor  7 to the development of her mesothelioma?  8 MS. KAGAN: Incomplete hypothetical.  9 THE WITNESS: Yes.  10 BY MS. ROMANO:  11 Q And with respect to her stepdad, you  12 also told us that that was another potential  13 source of exposure to Ms. Zimmerman; is that  14 right?  15 A Correct.  16 Q And that potential source of asbestos  17 exposure was because her stepfather worked at the  18 Union Asbestos and Rubber Company plant in  19 Bloomington; is that right?  20 A Correct.  21 Q And I know you talked about wind  22 patterns earlier, but I wasn't quite sure what  23 your opinion was in that regard. Do you believe  24 that Ms. Zimmerman had a potential exposure to  25 asbestos from -- well, strike that.</p>

<p style="text-align: right;">Page 66</p> <p>1 Do you believe or is it your opinion</p> <p>2 that Ms. Zimmerman had a potential environmental</p> <p>3 exposure to asbestos from living near the Unarco</p> <p>4 plant in Bloomington?</p> <p>5 A I mean, based on my understanding of</p> <p>6 the wind rose, it's unlikely. They lived</p> <p>7 about -- I think it was about a mile and a half</p> <p>8 from the plant in the direction against the</p> <p>9 prevailing winds, so it's unlikely. But it is</p> <p>10 theoretically possible. And it depends on --</p> <p>11 Q Is it fair -- I'm sorry. Go ahead.</p> <p>12 A I mean, it depends on whether there</p> <p>13 was effluence from the plant. Just because a</p> <p>14 plant was there doesn't mean it was contaminating</p> <p>15 the air.</p> <p>16 Q Would it be fair to say that that is a</p> <p>17 potential exposure or one that you can't rule in</p> <p>18 or rule out either way?</p> <p>19 MS. KAGAN: When you say "that," you</p> <p>20 mean the environmental?</p> <p>21 MS. ROMANO: Yes, sorry, the</p> <p>22 environmental exposure.</p> <p>23 THE WITNESS: The Unarco plant,</p> <p>24 there's some misinformation about what -- whether</p> <p>25 there was -- you know, there was -- Ms. Zimmerman</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. KAGAN: Calls for speculation.</p> <p>2 THE WITNESS: Correct.</p> <p>3 BY MS. ROMANO:</p> <p>4 Q And you said this was a potential</p> <p>5 exposure. What additional information would you</p> <p>6 want to see or need to see in order to move it</p> <p>7 from a potential exposure to a certain exposure</p> <p>8 or probable exposure?</p> <p>9 A This is a case where we actually had</p> <p>10 testimony describing that she avoided the house</p> <p>11 as much as possible. There was no testimony that</p> <p>12 she ever hugged her stepfather, that she gave --</p> <p>13 she didn't watch TV with the family, so it wasn't</p> <p>14 like there was cuddling on the couch or</p> <p>15 interactions that way.</p> <p>16 She didn't do his laundry. And, in</p> <p>17 fact, his laundry was kept segregated from the</p> <p>18 family laundry.</p> <p>19 There was no carpet in the house.</p> <p>20 There was hardwood floors, so it wasn't like the</p> <p>21 fibers became embedded in the carpet and then</p> <p>22 when Ms. Zimmerman's chore was vacuuming,</p> <p>23 hypothetically, she was exposed that way. It was</p> <p>24 hardwood floors, and she didn't describe the task</p> <p>25 of sweeping the floors.</p>
<p style="text-align: right;">Page 67</p> <p>1 or Ms. Fowler did not describe it snowing in July</p> <p>2 like people who lived a block from other asbestos</p> <p>3 plants have done where you would say, oh, yes,</p> <p>4 that was a definite exposure.</p> <p>5 There's no -- if they -- possible</p> <p>6 exposure is something that I noted because it was</p> <p>7 a plant that used asbestos and the stepfather</p> <p>8 worked there. But with respect to the</p> <p>9 environmental exposure, I haven't seen any</p> <p>10 testing that shows that they actually</p> <p>11 contaminated the air and that it would get into</p> <p>12 the Zimmerman/whatever Amos's last name was home</p> <p>13 from the environment.</p> <p>14 BY MS. ROMANO:</p> <p>15 Q With respect to the stepdad, setting</p> <p>16 aside the environmental exposure, going back to</p> <p>17 the fact that Ms. Zimmerman lived in the same</p> <p>18 home as her stepdad, Amos Martin, who worked at</p> <p>19 the Unarco plant, you said that was a potential</p> <p>20 source of exposure to Ms. Zimmerman; right?</p> <p>21 A Correct.</p> <p>22 Q And that would be from her stepdad</p> <p>23 bringing asbestos fibers home on his clothing, on</p> <p>24 his person, and bringing them into the family</p> <p>25 home. Fair?</p>	<p style="text-align: right;">Page 69</p> <p>1 It sounded like he walked into the</p> <p>2 basement and went directly into a shower. There</p> <p>3 was some pretty vivid exposure from Ms. Fowler as</p> <p>4 to why he did that and -- before it came up into</p> <p>5 the main living area for the family.</p> <p>6 So it sounded like he got -- tried to</p> <p>7 clean up as best he could after he came in from</p> <p>8 work entering through the basement and then</p> <p>9 showering and getting out of his work clothes</p> <p>10 before he interacted with the family.</p> <p>11 Q Have you ever testified in a case</p> <p>12 regarding an exposure to asbestos from this</p> <p>13 Unarco Bloomington plant?</p> <p>14 A Not that I remember.</p> <p>15 Q You're certainly familiar with the</p> <p>16 Union Rubber and Asbestos Company there?</p> <p>17 A As a name, sure. I'm not familiar</p> <p>18 with the plant facilities in any way, shape, or</p> <p>19 form, but they're a notorious name.</p> <p>20 Q And they're a notorious name for</p> <p>21 making asbestos-containing products, including</p> <p>22 insulation; is that right?</p> <p>23 MS. KAGAN: Foundation.</p> <p>24 THE WITNESS: I mean, Selikoff began</p> <p>25 studying Unarco workers I believe in New Jersey</p>



<p style="text-align: right;">Page 70</p> <p>1 in the 1950s. They made asbestos insulation  2 products, correct.  3 BY MS. ROMANO:  4 Q And you understand that at least some  5 of those insulation products contained amosite  6 asbestos?  7 A Yes.  8 Q Is it also your understanding that  9 some of the insulation products that Unarco made  10 contained crocidolite asbestos?  11 A That's my understanding. I believe  12 that was a much smaller percentage, but yes.  13 Q And if Ms. Zimmerman was exposed to  14 asbestos from her stepdad, would you consider  15 that a substantial contributing factor to the  16 development of her disease?  17 A Yes.  18 Q In the materials we received prior to  19 your deposition there are a number of  20 Unarco-related documents, some union records,  21 some employment records, a historic plant view,  22 as well as a Unarco advertisement.  23 Do you know which materials I'm  24 referencing, Dr. Moline?  25 A Yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 A Yes.  2 Q And so you're aware that he found both  3 crocidolite and amosite fibers in Ms. Zimmerman's  4 tissue?  5 MS. KAGAN: Mischaracterizes.  6 THE WITNESS: That's not what --  7 that's not the sum total of what he found, but he  8 did find that. He also found that there was  9 anthophyllite, tremolite, talc, and aluminum  10 silicate, I believe.  11 BY MS. ROMANO:  12 Q Correct. That was what I was looking  13 for. But you do agree or you understand that he  14 did find crocidolite and amosite fibers in her  15 tissue; right?  16 MS. KAGAN: Mischaracterizes.  17 THE WITNESS: In the tumor tissue,  18 correct. That was the predominant he found that  19 was in the tumor tissue, correct.  20 BY MS. ROMANO:  21 Q And so we know, based on Dr. Gordon's  22 findings, that Ms. Zimmerman was exposed at some  23 point in her life to both crocidolite and  24 amosite. Fair?  25 A Yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Now, were those materials that -- I  2 guess, where did those materials come from? Were  3 they provided to you by Plaintiffs's lawyers?  4 Did you have them already from previous work?  5 Did you go out looking for them? How did you  6 come to obtain those?  7 A I have no way of obtaining  8 Mr. Martin's employment records or his Unarco  9 contract. Those are not publicly available, to  10 the best of my knowledge, or I don't know how  11 they were obtained. They were given to me by  12 Plaintiff's counsel.  13 I did ask for -- whether there were  14 any maps or locations related to the plant and  15 the distance from the home that were provided to  16 me. So they were all provided by Plaintiff's  17 counsel. But they're publicly available, like a  18 Google map.  19 Q It looks like you also received  20 Dr. Gordon's fiber burden digestion in this case  21 with respect to Ms. Zimmerman's tissue; is that  22 right?  23 A Yes. I just received that yesterday.  24 Q And have you had a chance to review  25 Dr. Gordon's report?</p>	<p style="text-align: right;">Page 73</p> <p>1 Q Do you have an opinion as to the  2 likely source of Ms. Zimmerman's exposure to  3 amosite or crocidolite?  4 A I mean, it's possible it came from her  5 interactions with her stepfather or from -- but I  6 have no way of pinpointing it.  7 Q Was there anything else in  8 Ms. Zimmerman's history as you were reading  9 through the various depositions in this case and  10 her medical records, was there any other source  11 of exposure that you saw that could have  12 accounted for the amosite and crocidolite  13 findings in her tissue?  14 A You know, there have been some reports  15 of cummingtonite being found in some talc, which  16 is the noncommercial name for amosite. So apart  17 from that, that is a potential source of what  18 Gordon might have found as amosite. And I  19 believe that was from historical samples of  20 Johnson's baby powder where there was the  21 cummingtonite found.  22 But apart from the talc or the Unarco  23 work that her stepfather did, I did not see any  24 other sources.  25 Q And you're not offering an opinion,</p>

<p style="text-align: right;">Page 74</p> <p>1 are you, that amosite asbestos is a contaminant  2 of cosmetic talc?  3 A I'm just stating it was found in the  4 historical sample described as cummingtonite by  5 individuals in the past that have tested the  6 historical samples. I'm not opining. I would  7 leave that for the geologists, material  8 scientists to describe more. I can just state  9 what has been found.  10 Q I know I'm going to test your memory,  11 but do you recall what document or test result  12 you're referring to with respect to the  13 cummingtonite findings?  14 A I think it was in a testing document  15 from Mr. Matt Sanchez, who I believe listed  16 samples of the historical -- the archived  17 Johnson's baby powder, and that was what he  18 found.  19 Q It sounds like a single finding of  20 cummingtonite by Dr. Sanchez; is that right?  21 MS. KAGAN: Mischaracterizes.  22 THE WITNESS: I don't know if it  23 was -- I think it was more than one finding. It  24 was in more than one sample. I don't have that  25 report in front of me, unfortunately, or those</p>	<p style="text-align: right;">Page 76</p> <p>1 anthophyllite, and talc particles that Dr. Gordon  2 claimed to have found in Ms. Zimmerman's tissue,  3 it's fair to say that you cannot I guess connect  4 those particles to any specific product that  5 Ms. Zimmerman used. Is that fair?  6 MS. KAGAN: Mischaracterizes.  7 Argument.  8 THE WITNESS: So you can't use the  9 word claim in a pejorative sense for one  10 paragraph and not the other. So if you could  11 just rephrase the question because it's making it  12 sound like it was a definite finding when it was  13 one thing and it's a claim when it's another. So  14 if you could just rephrase the question, I'd  15 appreciate it.  16 BY MS. ROMANO:  17 Q Sure. With respect to Dr. Gordon's  18 findings of anthophyllite, tremolite, and talc,  19 you have no way of connecting those specific  20 particles to any specific product that  21 Ms. Zimmerman may have used. Fair?  22 MS. KAGAN: Mischaracterizes.  23 Argument.  24 THE WITNESS: Are you asking can I  25 connect it to any peculiar manufacturer or seller</p>
<p style="text-align: right;">Page 75</p> <p>1 reports, so I -- you're testing my memory here.  2 I don't think it was a single sample.  3 BY MS. ROMANO:  4 Q Okay. Fair enough. Have you seen any  5 documents, testing reports, et cetera, aside from  6 Dr. Sanchez's report that shows cummingtonite in  7 any Johnson &amp; Johnson talc or talc product?  8 A I don't recall seeing it, no.  9 Q And have you seen any documents that  10 you believe show crocidolite asbestos being found  11 in any talc or -- J&amp;J talc or finished product?  12 A I haven't seen -- I don't recall  13 seeing any crocidolite in any J&amp;J finished  14 product.  15 Q And with respect to the cummingtonite  16 findings, again, you would defer to a testing  17 expert or a mineralogist with respect to that  18 finding and that mineral characterization. Is  19 that fair?  20 MS. KAGAN: Compound. Characterizes.  21 THE WITNESS: Yes, I would refer to a  22 geologist or a material scientist or somebody who  23 could characterize the fibers.  24 BY MS. ROMANO:  25 Q And with respect to the tremolite,</p>	<p style="text-align: right;">Page 77</p> <p>1 of the product as opposed to just cosmetic talc?  2 Is that what your question is? I'm sorry. I  3 just want clarification.  4 BY MS. ROMANO:  5 Q Sure. Let me break it down. You  6 would agree that there's no way to know where any  7 particular fiber or particle in an individual  8 tissue came from; right? They don't wear name  9 tags or date stamps. Fair?  10 MS. KAGAN: Overbroad.  11 THE WITNESS: They certainly don't  12 have date stamps, so it is not possible to say it  13 came from a container on January 6th, 1957,  14 versus January 7th, 1959. I do look at the  15 comments of what is found in the tissue and see  16 if it makes sense and if it is consistent with  17 what's been found in other folks for a particular  18 type of exposure.  19 But you can't pinpoint a particular  20 particle from a particular exposure on a  21 particular day.  22 I'm done.  23 BY MS. ROMANO:  24 Q Thank you. Would it be fair to say  25 that you cannot say to a reasonable degree of</p>



<p style="text-align: right;">Page 78</p> <p>1 medical certainty that any of the particles  2 Dr. Gordon found in Ms. Zimmerman's tissue came  3 from Johnson's baby powder?  4 A I can't say which manufacturer of  5 cosmetic talc. The findings of the fiber types  6 along with the talc and the silicates are all  7 consistent with talc exposure and what's been  8 reported in the literature for folks who are  9 exposed to cosmetic talc, so that would be the  10 extent to which I would be able to testify.  11 Q It's fair that you also received  12 Dr. Roggli's pathology report in this case; is  13 that right?  14 A I don't have it with me. It wasn't in  15 my binder. I think -- let me just check. I  16 don't have it in the binder I brought with me. I  17 think he -- the thing I remember is he had  18 asbestos bodies that he found and it was  19 consistent with cosmetic talc.  20 But, unfortunately, I don't have it.  21 I didn't -- I received it online, and I did not  22 print it out.  23 Q That's fine. I was just going to ask  24 you what significance Dr. Roggli's report had to  25 you or if you had any opinions based on</p>	<p style="text-align: right;">Page 80</p> <p>1 digestion report, Dr. Roggli's pathology report,  2 and Dr. Longo's report related to the two bottles  3 of Johnson's baby powder that were provided by  4 Ms. Zimmerman, did you review any other  5 case-specific expert reports?  6 MS. KAGAN: Julia, I'm just going to  7 clarify that she has the other expert reports  8 that are on her reference and reliance list.  9 They're not specific to Ms. Zimmerman. Is that  10 what you mean?  11 MS. ROMANO: Right. That's exactly  12 what I mean. I don't mean Longo's report or  13 Dr. Compton's, you know, kind of general report  14 about Vermont talc or things like that. I'm  15 really just asking specifically about reports  16 that are specific to Ms. Zimmerman as opposed to  17 a more general report that might relate to one of  18 the Defendants in the case.  19 MS. KAGAN: Thank you for the  20 clarification.  21 THE WITNESS: That's right. I think I  22 have Longo's declaration that would have been  23 specific in this report, but apart from that,  24 that's correct.  25 BY MS. ROMANO:</p>
<p style="text-align: right;">Page 79</p> <p>1 Dr. Roggli's report.  2 A I mean, I think it's all consistent  3 with her exposures. He just -- I don't recall  4 that he ascribed it to a source. He just said he  5 found it. And I recall the asbestos bodies and  6 that the meso was -- my recollection is -- and,  7 again, this is from memory, but that the meso  8 was -- the mesothelioma Ms. Zimmerman had was  9 related to asbestos. He found asbestos bodies.  10 And that's what my takeaway was from  11 it. And it was an amphibole exposure. I don't  12 think he differentiated what type of fiber it  13 was. I don't recall that he broke that down.  14 Q Fair enough. Other than Dr. Gordon's  15 report, Dr. Roggli's report, and Dr. Longo's  16 report related to the two Johnson's baby powder  17 bottles that were provided by Ms. Zimmerman, did  18 you review any other case-specific expert  19 reports?  20 MS. KAGAN: Julia, can you go back?  21 I'm sorry. I missed the first part of your  22 question.  23 MS. ROMANO: Sure.  24 BY MS. ROMANO:  25 Q Other than Dr. Gordon's fiber burden</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Thank you. And I think you've told us  2 already that you've not calculated a cumulative  3 asbestos dose for Ms. Zimmerman and have no  4 intention of doing so; is that right?  5 A Correct.  6 Q I'm sure I've asked you questions  7 about latency before, so I'll try to keep it  8 short. In your opinion, what is the shortest  9 latency period for mesothelioma? Is it ten  10 years?  11 MS. KAGAN: Julia, could you clarify?  12 Are you asking from the first exposure or from  13 the last exposure?  14 MS. ROMANO: From -- well, I guess  15 I'll ask that of Dr. Moline.  16 BY MS. ROMANO:  17 Q Dr. Moline, in terms of latency,  18 latency is often characterized as the time from  19 onset of exposure to time of diagnosis. Is that  20 fair?  21 A Right. It's typically described as  22 when the first exposure occurred to when they  23 develop the disease.  24 Q And in your opinion, what is the  25 shortest latency period for mesothelioma? Is it</p>

<p style="text-align: right;">Page 82</p> <p>1 ten years?</p> <p>2 A In general, that's about what the</p> <p>3 minimum latency is. There are about a handful of</p> <p>4 cases that have a shorter latency that have been</p> <p>5 reported in the literature, but in general, it's</p> <p>6 about 10 or 11 years as the beginning latency,</p> <p>7 and then it obviously increases with time.</p> <p>8 Q Of course. And Ms. Zimmerman was</p> <p>9 diagnosed with mesothelioma in June of 2018, I</p> <p>10 believe?</p> <p>11 A Correct.</p> <p>12 Q Do you agree that any potential</p> <p>13 asbestos exposure Ms. Zimmerman may have had the</p> <p>14 ten years prior to her diagnosis would not</p> <p>15 have -- would likely not have played a role in</p> <p>16 the development of her mesothelioma?</p> <p>17 A No. You know, I think it -- that has</p> <p>18 not been well studied with respect to what --</p> <p>19 when the minimum -- the amount of time from when</p> <p>20 a -- the most recent exposure that would not have</p> <p>21 any effect would be. Certainly once the tumor</p> <p>22 has started developing. Then any additional</p> <p>23 exposure would be noncontributory.</p> <p>24 I don't think it's clear in the</p> <p>25 literature, it hasn't been well studied, with</p>	<p style="text-align: right;">Page 84</p> <p>1 most recent publication. It's my most recent</p> <p>2 publication dealing with asbestos.</p> <p>3 Q Thank you. Your recent publication</p> <p>4 that you authored with Dr. Gordon regarding</p> <p>5 cosmetic talc and mesothelioma, it's my</p> <p>6 understanding that you -- and I think you already</p> <p>7 told us in this deposition -- that you will not</p> <p>8 be divulging the identity of the plaintiffs or</p> <p>9 the 33 subjects or cases in the paper; right?</p> <p>10 A Correct.</p> <p>11 Q And that's true even though they all</p> <p>12 had public lawsuits related to their</p> <p>13 mesothelioma?</p> <p>14 A Correct.</p> <p>15 Q And you talked a little bit about</p> <p>16 the -- I can't remember if you brought up HIPAA</p> <p>17 today, but I know you brought up the IRB. If you</p> <p>18 obtained the 33 plaintiffs' consent, could you</p> <p>19 then divulge their identities, or would there be</p> <p>20 something about the IRB process that would still</p> <p>21 prohibit you from divulging their identities?</p> <p>22 A Well, if you exclusively obtain their</p> <p>23 consent to divulge their identity -- I mean, that</p> <p>24 was not how we presented our paperwork to the</p> <p>25 IRB. That would be a totally different scenario.</p>
<p style="text-align: right;">Page 83</p> <p>1 respect to the last time an exposure can be</p> <p>2 important. It may be that more recent exposures</p> <p>3 before the tumor developed are the -- and the</p> <p>4 multi-hit hypothesis for carcinogens could be the</p> <p>5 ones that push someone over the edge.</p> <p>6 I don't know that there's a</p> <p>7 hard-and-fast numerical value that one can truly</p> <p>8 attribute for when the last period is.</p> <p>9 Certainly, when the tumor starts to develop, and</p> <p>10 that we're not fully clear on, then no exposure</p> <p>11 after that would contribute.</p> <p>12 Q And in this case is there any way for</p> <p>13 you to determine when Ms. Zimmerman's tumor</p> <p>14 started to develop?</p> <p>15 A Unfortunately, no. People can -- it</p> <p>16 may start a couple years before. It may start a</p> <p>17 year before. It may start three or four years</p> <p>18 before. But we have no way of knowing.</p> <p>19 Q You were asked some questions about</p> <p>20 your most recent publication that you did with</p> <p>21 Dr. Gordon and others. Just a few brief</p> <p>22 questions because I know we've already talked</p> <p>23 about it at length and we've deposed you on it</p> <p>24 before.</p> <p>25 A Just to clarify, it's actually not my</p>	<p style="text-align: right;">Page 85</p> <p>1 I honestly have never seen a paper</p> <p>2 where someone's name was included. Sometimes</p> <p>3 people will do that in books that they write.</p> <p>4 But I haven't -- it's just not done. I mean, you</p> <p>5 know, we talked about Dr. Roggli earlier. He</p> <p>6 just published a paper on 300-something cases</p> <p>7 from litigation. He didn't divulge anyone's</p> <p>8 name. I mean, it's just not done.</p> <p>9 Q And I understand that with respect to</p> <p>10 the publications. I was wondering what your</p> <p>11 position was on the idea of if you went and asked</p> <p>12 those 33 plaintiffs for their consent whether</p> <p>13 that would then allow you to divulge their</p> <p>14 identities in a deposition, for example, not</p> <p>15 necessarily as part of a publication or a --</p> <p>16 A I see. So it's a different question.</p> <p>17 Some of those people have passed on, so that's</p> <p>18 not possible, and I would not feel comfortable</p> <p>19 doing that.</p> <p>20 Q Have you communicated to those 33</p> <p>21 plaintiffs or their lawyers that they were the</p> <p>22 subject of the paper that you published?</p> <p>23 A I did not have any communication with</p> <p>24 any lawyers in advance of the publication in</p> <p>25 terms of including them, and that was part of the</p>

<p style="text-align: right;">Page 86</p> <p>1 HIPAA process or the IRB process and -- which was  2 to keep everything anonymous.  3 I did not have any conversations with  4 any lawyers. In fact, they didn't even realize  5 that this paper was coming out from my end.  6 Q What about after the paper was  7 published?  8 A People commented on the paper. They  9 did not specifically say, hey, you included one  10 of our individuals.  11 I've never had such a conversation,  12 nor would I encourage it. What goes for the  13 goose goes for the gander. I don't discuss it  14 with anyone in terms of the names.  15 Q I see that you have the Fordyce  16 article listed on your reliance list. Do you  17 know which article I'm talking about, Dr. Moline?  18 A Are you talking about the Vermont talc  19 one?  20 Q Yes.  21 A Yes. I have that on my list.  22 Q And do you have any opinions or  23 criticisms of the paper?  24 A You know, it's an overwhelmingly small  25 sample size. I think the -- there has been a lot</p>	<p style="text-align: right;">Page 88</p> <p>1 to the various letters to the editor that have  2 been published following the paper's publication?  3 A Yes.  4 Q Okay. But you do understand that the  5 authors of the study concluded that there is no  6 increased risk of mesothelioma in that cohort; is  7 that right?  8 A That's what the authors concluded. I  9 don't know if I agree with that conclusion based  10 on the numbers of the small sample size. I don't  11 know how they came with those numbers, and I  12 think those are some of the questions -- the  13 criticisms that were raised in some of those  14 letters to the editor.  15 That is Fordyce's conclusion. I don't  16 know how they arrived at that conclusion given  17 the small sample size and the fact that they  18 found a mesothelioma. But that is what they  19 found. That is what they stated, not necessarily  20 what they found. But that's what they stated.  21 Q That was their conclusion?  22 A That was their conclusion. And  23 they're entitled to their opinion and their  24 conclusion, but that may not be what the facts  25 are. But the paper will speak for itself, and</p>
<p style="text-align: right;">Page 87</p> <p>1 of back and forth in the published literature  2 about some of the issues related to their  3 comparison group and how the rates were  4 calculated.  5 I mostly took away from it that they  6 actually found a mesothelioma in a cohort of 400  7 people in addition to a discussion that the talc  8 ban that has been not particularly well described  9 by Lamb would also not consider the person with  10 the mesothelioma.  11 So there's the talc ban with  12 mesothelioma in addition to the Fordyce  13 mesothelioma that they found as part of the  14 cohort.  15 I have read some of the back and forth  16 about the rates. I did not analyze the -- how  17 they were calculating the rates, which did seem a  18 little odd to me, but I had -- I think by the  19 time I read that I'd also read a lot of the  20 criticism, so I -- it wasn't in isolation that I  21 read it.  22 Q I'm sorry. Go ahead.  23 A I was done.  24 Q I didn't want to interrupt you. When  25 you said the "back and forth," are you referring</p>	<p style="text-align: right;">Page 89</p> <p>1 the statistical analyses and whether they used  2 appropriate comparison groups I'm sure will be  3 fodder for many people in the future.  4 Q Is it fair to say that you haven't  5 actually undertaken to go back and look at those  6 calculations yourself or to recalculate them? Is  7 that fair?  8 A I would defer to a statistician or an  9 epidemiologist on that. I have not personally  10 done that. I do recall when I was reading it  11 that the numbers and the conclusions didn't match  12 for me. But I did not take the time to sit down  13 with a statistician to go over the numbers and  14 how they arrived at them. That's a fairly large  15 undertaking that I don't have time for.  16 Q Other than what we have discussed just  17 now, is there anything else about the Fordyce  18 paper that you intend to discuss or opine on at  19 trial?  20 A Not that I can think of. I mean, I  21 think that only that other statisticians have  22 commented on it if I'm asked about it, but I  23 think we talked about that already.  24 Q Okay. When you say "other  25 statisticians," are you referring to the letters</p>

<p style="text-align: right;">Page 90</p> <p>1 to the editor?</p> <p>2 A Right. Dr. Madigan's a statistician.</p> <p>3 He commented on it. Finkelstein's an</p> <p>4 epidemiologist. He commented on it. That kind</p> <p>5 of thing.</p> <p>6 Q It's still true that you're not aware</p> <p>7 of any public peer-reviewed epidemiology study</p> <p>8 that has concluded there is an increased risk of</p> <p>9 mesothelioma as a result of exposure to cosmetic</p> <p>10 talc?</p> <p>11 MS. KAGAN: Are you asking about</p> <p>12 cosmetic talc in the absence of asbestos?</p> <p>13 MS. ROMANO: Just cosmetic talc.</p> <p>14 THE WITNESS: I'm not aware of any</p> <p>15 studies that have been done that are not -- that</p> <p>16 is not like a series on end users of cosmetic</p> <p>17 talc.</p> <p>18 BY MS. ROMANO:</p> <p>19 Q But are you aware of any published</p> <p>20 peer-reviewed epidemiology study that concluded</p> <p>21 there is an increased risk of mesothelioma from</p> <p>22 exposure to cosmetic talc?</p> <p>23 A There have been no studies that have</p> <p>24 been done that have addressed that question, so</p> <p>25 I'm unaware of any studies that have been done</p>	<p style="text-align: right;">Page 92</p> <p>1 A I think you're talking about a table</p> <p>2 with various testing. But if I'm looking at it,</p> <p>3 it has hundreds of different entries, yes.</p> <p>4 Q And you've also seen at trial the</p> <p>5 large blue boards that sort of break out what</p> <p>6 those documents are. Are you with me?</p> <p>7 A I've seen demonstratives that are --</p> <p>8 that blow up some of the summary tables from some</p> <p>9 of the documents included, correct.</p> <p>10 Q Since your and my last case together,</p> <p>11 which was the Crudge case in the fall of 2019,</p> <p>12 have you added any additional documents to that</p> <p>13 list or binder?</p> <p>14 A To be honest, I believe I have. That</p> <p>15 was -- the Crudge case I think was before the</p> <p>16 article in -- or the testing done by the FDA</p> <p>17 finding asbestos in the Johnson &amp; Johnson powder.</p> <p>18 The dates all blur in my head, but I</p> <p>19 believe that there have been a number of</p> <p>20 different -- certainly on my reliance list on</p> <p>21 page 43 there's a number of documents that came</p> <p>22 out afterwards.</p> <p>23 Q That's fair enough. That's actually</p> <p>24 where I was going.</p> <p>25 Other than the group of documents</p>
<p style="text-align: right;">Page 91</p> <p>1 that have applied statistical tools to that in</p> <p>2 the literature.</p> <p>3 Q Well, with respect to -- I understand</p> <p>4 that with respect to I guess end users of</p> <p>5 cosmetic talc. Is it still true that you're not</p> <p>6 aware of any published peer-reviewed epidemiology</p> <p>7 study that has concluded that there is an</p> <p>8 increased risk of mesothelioma to cosmetic talc</p> <p>9 miners and millers?</p> <p>10 A Not by the authors who wrote the</p> <p>11 papers. I think there's been correspondence in</p> <p>12 the medical literature about that. There are</p> <p>13 plenty of other epi studies that have looked at</p> <p>14 the question of asbestos and mesothelioma that</p> <p>15 have looked at that even at low doses, so -- but</p> <p>16 not specifically related to cosmetic talc.</p> <p>17 Q The Johnson &amp; Johnson internal company</p> <p>18 documents, in previous cases, you've relied on</p> <p>19 what I think we've called a testing binder that</p> <p>20 contained -- I forget the number, but a large</p> <p>21 number of documents that you rely on for your</p> <p>22 opinion that there is asbestos in Johnson &amp;</p> <p>23 Johnson talc.</p> <p>24 Do you know what binder I'm talking</p> <p>25 about?</p>	<p style="text-align: right;">Page 93</p> <p>1 related to the October 2019 findings and</p> <p>2 Johnson &amp; Johnson's voluntary recall, I'm</p> <p>3 grouping those together in one category, are</p> <p>4 there any other new documents related to -- or</p> <p>5 any new internal company documents that you've</p> <p>6 reviewed aside from -- and we'll set aside the</p> <p>7 recall for a moment.</p> <p>8 A Not unless they were enumerated in the</p> <p>9 Reuters article. And it would have been a</p> <p>10 document I hadn't seen. But I think all of those</p> <p>11 are on my reliance document. It would be on the</p> <p>12 reliance list generally.</p> <p>13 Q Now, with respect to the documents</p> <p>14 that you've listed in the -- I'll call it the</p> <p>15 recall section of your reliance list, were those</p> <p>16 documents provided to you by plaintiff lawyers,</p> <p>17 or did you obtain those? How did you come to get</p> <p>18 all the documents listed in that section?</p> <p>19 A I got a lot of them because it was all</p> <p>20 over the news and it was something I was</p> <p>21 interested in. With respect to the FDA</p> <p>22 documents, I had those. The Reuters documents I</p> <p>23 had. FDA news release I had.</p> <p>24 Comments about the testing, I had seen</p> <p>25 some of those. I think some of them became</p>

<p style="text-align: right;">Page 94</p> <p>1 available online. So I -- it was in the public                  2 interest, and it was all over the media, so they                  3 were available that way.                  4 Q Do you plan to provide any testimony                  5 or opinions regarding FDA's October 2019                  6 announcement about AMA's findings of chrysotile                  7 in one bottle of Johnson's baby powder?                  8 A I would assume I would be asked                  9 questions about that and would ask if I'd heard                  10 about it and was aware of it, yes. But I don't                  11 know what I'm going to be asked.                  12 Q Fair to say that the AMA findings                  13 would be something that you would I guess                  14 reference in terms of the finding of asbestos in                  15 Johnson &amp; Johnson talc, but when it comes to the                  16 methodology used or the reliability of those                  17 results, that's something that you would defer to                  18 others on?                  19 A As to findings, I mean, it was -- I                  20 would expect that I would opine on that this was                  21 from a source, meaning the Chinese source, that                  22 Ms. Zimmerman had been using for many years. It                  23 was consistent with the finding of Longo finding                  24 chrysotile in her actual bottle from 2014. And                  25 then the FDA testing through AMA also found it in</p>	<p style="text-align: right;">Page 96</p> <p>1 also in addition looking for chrysotile.                  2 So I don't recall seeing him look for                  3 chrysotile prior to the Zimmerman report. I                  4 don't know if he's done other reports or looked                  5 for chrysotile in other cases since the FDA                  6 report came out.                  7 Q And with respect to Dr. Longo's                  8 testing, again, with respect to his methodology                  9 and his results, whether they're reliable and                  10 accurate, is something that you would defer to                  11 others because that's not your field. Fair?                  12 MS. KAGAN: Argument as to "reliable                  13 and accurate."                  14 THE WITNESS: I can't speak to the                  15 methodology. I'm going to defer to others to                  16 speak about methodology.                  17 BY MS. ROMANO:                  18 Q And I think you and I have had this                  19 conversation before that with respect to any of                  20 the documents you rely on for your opinion that                  21 there's asbestos in cosmetic talc and                  22 specifically Johnson's baby powder, you're                  23 essentially taking those conclusions at face                  24 value because testing is not your area of                  25 expertise. Is that fair?</p>
<p style="text-align: right;">Page 95</p> <p>1 2019, so I would expect that there would be a                  2 question related to that.                  3 With respect to the actual methodology                  4 on how the testing was done, I would defer to                  5 others.                  6 Q And you are aware that AMA tested two                  7 bottles of Johnson's baby powder and the other                  8 bottle tested negative for asbestos; right?                  9 A That's my recollection, yes.                  10 Q I want to talk a little bit about                  11 Dr. Longo's findings with respect to what I'll                  12 call the Zimmerman bottles. Is it your                  13 understanding that with respect to Dr. Longo's                  14 testing of the Zimmerman bottles, this was the                  15 first time that Dr. Longo has ever claimed to                  16 find chrysotile in Johnson's baby powder or a J&amp;J                  17 talc product?                  18 A I think that it was -- I mean, his                  19 prior methodology specifically states he wasn't                  20 measuring chrysotile, so I don't recall seeing                  21 it. I think he's using an additional method in                  22 addition to the heavy liquid separation which is                  23 going to be looking for the amphiboles that                  24 separate out that will not find chrysotile                  25 because chrysotile is too light, that now he's</p>	<p style="text-align: right;">Page 97</p> <p>1 MS. KAGAN: Argument.                  2 THE WITNESS: I mean, in the sense                  3 that the findings that are -- I'm taking them --                  4 I'm looking at them in the context of the                  5 historical testing that's been done that found                  6 chrysotile at the University of Minnesota that's                  7 using methods from the Colorado School of Mines                  8 to find the testing that's been done before.                  9 It's been found in the historical                  10 testing that the detection limits are such that                  11 one would find it and not be classified as a                  12 nondetect. So it's looking at the described                  13 methodology with respect to its sensitivity but                  14 also looking in the historical context of what's                  15 been done, what's been found.                  16 In terms of how the methodology is                  17 done, I guess that's not my area, but -- so I                  18 hope that answers your question. If not, I'm                  19 happy to try again.                  20 BY MS. ROMANO:                  21 Q No. I think it does. I think we can                  22 agree that with respect to the testing documents                  23 that you're relying on, you're essentially                  24 relying on the conclusions of whoever authored                  25 those documents rather than really taking a</p>



<p style="text-align: right;">Page 98</p> <p>1 critical look at the methodology because that's                  2 somebody else's field?                  3 MS. KAGAN: Mischaracterizes.                  4 Argument as to "critical look."                  5 THE WITNESS: The only -- I mean,                  6 there are a couple things that I look at. In                  7 terms of how they actually go about doing a                  8 columnar separation using various reagents, I'm                  9 not paying attention to that because I can't --                  10 wouldn't be able to opine whether that was using                  11 a standard methodology or not.                  12 What I am interested in is their                  13 limits of detection and what they're able to                  14 find, and that I do look at to see whether, when                  15 they're referring to a nondetect, if it's a                  16 nondetect or a true value of not finding anything                  17 if that is enumerated within the document.                  18 So it's sort of a two part. Part of                  19 it, I am not doing a critical review of how                  20 someone is doing their laboratory work, but the                  21 other is what do they say their limits are of                  22 detection and what are they able to find and are                  23 they using a sensitive enough method, for                  24 example, if someone's using SEM versus TEM when                  25 we know that TEM is more sensitive than SEM and</p>	<p style="text-align: right;">Page 100</p> <p>1 things along those lines.                  2 Q Thank you. Sorry. That was not a                  3 very well-worded question on my -- okay. Let me                  4 look at my notes.                  5 Going back to your notes that were                  6 produced to us, Dr. Moline, on the first page,                  7 you have notes regarding Ms. Zimmerman's use of                  8 Johnson's baby powder. Do you have those in                  9 front of you?                  10 A Yes.                  11 Q And it says, "Powder started 1954 -                  12 J&amp;J." Then there's a parentheses, 54 to 2008.                  13 Is that the number of bottles that you added up                  14 for Johnson's baby powder based on                  15 Ms. Zimmerman's testimony?                  16 MS. KAGAN: Mischaracterizes.                  17 THE WITNESS: I have 2018 on my notes.                  18 BY MS. ROMANO:                  19 Q Oh, okay. The 1 is not showing up on                  20 what I can see. Okay. So that's just the date                  21 range that she used Johnson's baby powder, 1954                  22 to 2018?                  23 A Correct.                  24 Q And did you calculate how many bottles                  25 of Johnson's baby powder Ms. Zimmerman would have</p>
<p style="text-align: right;">Page 99</p> <p>1 you're not going to be able to differentiate                  2 certain things if they're only using an SEM                  3 versus a TEM or a phase contrast microscope.                  4 So you don't find something on a phase                  5 contrast microscope. But does that mean that you                  6 wouldn't see it if you used a TEM? So that's the                  7 degree that I would look at it.                  8 BY MS. ROMANO:                  9 Q With respect to mineral                  10 characterization with respect to -- if you're                  11 looking at a particle under a microscope and                  12 trying to determine what mineral it is, that's                  13 something that you also are relying on whoever's                  14 authoring the document rather than doing that                  15 yourself; right?                  16 MS. KAGAN: Are you asking for a                  17 determination of the chemical composition?                  18 MS. ROMANO: Right.                  19 BY MS. ROMANO:                  20 Q The actual conclusion as to what any                  21 of the documents are finding, you're relying on                  22 those conclusions with respect to the                  23 characterization of the mineral?                  24 A Correct. I'm not doing mineral                  25 characterization. I'm not looking at peaks and</p>	<p style="text-align: right;">Page 101</p> <p>1 used based on her testimony?                  2 A Yes. And, also, I mean, it was                  3 corroborated by her sister and then her kids.                  4 And it was -- I did a whole sheet where I                  5 calculated those numbers, and I thought I made it                  6 clear.                  7 MS. KAGAN: Julia, I think it's the                  8 last page in the notes.                  9 MS. ROMANO: I see that. Thank you.                  10 BY MS. ROMANO:                  11 Q So if we go to the last page or the                  12 exposure page, what is the total -- is it the                  13 768 bottles? Is that the total number of                  14 bottles, Dr. Moline?                  15 A The calculations are based on the time                  16 frame that she used it and how often she said she                  17 used it. For example, when she was younger, she                  18 only used Johnson's baby powder. She used that                  19 once a day, and I calculated once a day even --                  20 and it's a conservative value because she said                  21 sometimes she used it more than once a day. But                  22 I just did once a day, and that would be 730                  23 times.                  24 With respect to the bottles, it was                  25 based -- and, again, this is conservative because</p>

<p style="text-align: right;">Page 102</p> <p>1 she said she used one to two containers a month  2 and I only calculated as based on one container a  3 month for the 64 years. And then I said one  4 container per 64 years, and there are 12 months  5 in a year, and that's how I got the 768 bottles.  6 MS. ROMANO: Thank you for that.  7 Sorry. I'm scrolling through my notes trying to  8 cut down what I need to ask you. Give me one  9 moment, please.  10 I think now's a good time for a break.  11 We've been going an hour.  12 THE WITNESS: Sure. I can do a  13 stretch break.  14 (Proceedings in recess, 12:40 p.m. to  15 12:46 p.m.)  16 BY MS. ROMANO:  17 Q Dr. Moline, are you ready to continue?  18 A Yes.  19 Q With respect to Dr. Longo's report  20 related to the two Zimmerman bottles, is there  21 anything else other than what we've already  22 discussed that you intend to discuss or opine on  23 at trial with respect to that report?  24 A Not I can think of.  25 Q And generally speaking with respect to</p>	<p style="text-align: right;">Page 104</p> <p>1 her medical expenses might be in the future or  2 anything like that?  3 A I have not per se. You know, it's so  4 hard to predict because it depends on her course  5 and what she might require and if there's  6 inpatient versus outpatient versus medication  7 costs and things like that.  8 So I haven't -- I would anticipate  9 that it would total -- you know, again, it  10 depends on what she elects to do at the end of  11 life. It could total easily more than six  12 figures, but it depends on her course and what  13 she decides to do.  14 I mean, it's going to be what she's  15 already incurred and then using that as a  16 starting point to say, yes, we know what she's  17 incurred getting these treatments. She's  18 continuing these treatments. They're going to  19 continue, that kind of thing.  20 Q Have you calculated or added up her  21 past medical expenses? Is that something that  22 you've done in this case?  23 A In a general sense that it's -- from  24 the various hospitals and the records that I saw,  25 it's about -- I think it was billed at around</p>
<p style="text-align: right;">Page 103</p> <p>1 the testimony that you intend to give at trial,  2 you obviously go through your background and  3 qualifications. Then you often discuss sort of  4 the historical context of asbestos and learning  5 that asbestos can cause disease.  6 And then you also I guess do that with  7 respect to talc and the evolution of knowledge  8 with respect to talc and asbestos. Then you talk  9 about obviously Ms. Zimmerman and what you  10 believe caused Ms. Zimmerman's mesothelioma. And  11 then you often talk about I guess the disease  12 progression in terms of what the future holds for  13 Ms. Zimmerman.  14 Is that a fair summary or description  15 of the testimony that you intend to give at trial  16 in this case?  17 A I think -- yes. Obviously, I might be  18 asked other questions, but it will be asking  19 about what her medical course is. And I'm often  20 asked if the medical bills and the costs were  21 reasonable and necessary. But that's basically  22 in general what I've been asked at trial.  23 Q Okay. And with respect to  24 Ms. Zimmerman's future medical treatment, have  25 you come up with an estimate in terms of how much</p>	<p style="text-align: right;">Page 105</p> <p>1 800 -- or I'm sorry -- \$600,000. \$600,000 has  2 been billed as to date.  3 Q When you say "billed," do you mean  4 actually billed as opposed to what actually might  5 be paid out of that \$600,000-ish? Is that right?  6 A Right, because there's always a bill  7 that's -- there's negotiated rates. But the  8 initial bills have been around \$600,000. I think  9 it's been -- because I think she has Medicare as  10 her primary, it -- the Medicare rates are  11 significantly less than what's billed. So it's  12 less.  13 Q And with respect to Ms. Zimmerman's  14 clinical course, what are the most recent medical  15 records that you've reviewed in the case just in  16 terms of a date and general type of medical  17 record?  18 A I have something from -- I think the  19 last I have was October 2019. Yeah, 2019,  20 October 2019.  21 Q So you haven't seen any records  22 demonstrating what type of treatment, if any,  23 she's undergoing at this point in time. Is that  24 fair?  25 A I don't know exactly what she's</p>



<p style="text-align: right;">Page 106</p> <p>1 getting now. I know the last I saw she was on a                  2 steroid paper for radiation pneumonitis. I don't                  3 have the medical records, which is something I                  4 could ask to be provided, but they may become                  5 available.                  6 Q And so at least as of today you're not                  7 going to testify about Ms. Zimmerman's current                  8 status. Is that fair?                  9 A I can only talk about -- right.                  10 That's correct. I can't comment on what's                  11 transpired since October because I haven't seen                  12 the records.                  13 Q With respect to exposure calculations                  14 from cosmetic talc, in the past I believe you've                  15 relied on Dr. Gordon's 2014 article. You've                  16 relied on the Anderson paper that I guess was                  17 a -- I don't know if rebuttal is the right word,                  18 but a rebuttal to that Dr. Gordon paper.                  19 You relied on Dr. Longo's exposure                  20 data and then I believe also a 2007 paper by                  21 Mattenklott.                  22 Are there any other documents or                  23 reports that you rely on for exposure                  24 calculations other than the ones I just listed?                  25 A I mean, some of the timing would be</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MR. POLCHINSKI:                  2 Q Dr. Moline, I guess I will go next.                  3 This is Pete Polchinski. I represent Revlon.                  4 I'm going to ask you some questions about Jean                  5 Nate. Dr. Moline, you have been involved in the                  6 talc litigation for at least several years now.                  7 Would that be fair to say?                  8 A Yes.                  9 Q With regard to cosmetic talc, and I'm                  10 not talking about diapering a baby, I'm talking                  11 about a person applying talcum powder, is there,                  12 in your experience, a typical application time                  13 period, in other words, how long it takes to                  14 apply the powder?                  15 A I think that -- I don't know if any                  16 woman or man would consider themselves typical                  17 with their application. I think some folks can                  18 be very fastidious and slow, and then others may                  19 be -- may apply it quickly. So I don't know how                  20 to answer.                  21 I mean, everyone is different. I've                  22 seen numbers where people describe putting talc                  23 on that have been corroborated by family members                  24 that it took five minutes. Others have described                  25 it as being a minute or two.</p>
<p style="text-align: right;">Page 107</p> <p>1 like the timing that was represented as how long                  2 it takes for -- to diaper a baby. That was from                  3 Dement and also some internal Johnson &amp; Johnson                  4 documents about how long it takes.                  5 I mean, there have been other studies                  6 that have been done like Compton and Fitzgerald,                  7 but when I've done the calculations in the past,                  8 I think that's been a fair way to characterize                  9 how I've done that.                  10 Q Okay. Thank you.                  11 A You're asking me questions related to                  12 Johnson &amp; Johnson; right? Because there are                  13 other --                  14 Q Yes. I'm sorry.                  15 A Okay.                  16 Q Yes, specific to Johnson's baby                  17 powder.                  18 A Okay.                  19 MS. ROMANO: I think those are all my                  20 questions at this time, Dr. Moline. I'm going to                  21 go ahead and pass you on to someone else and                  22 check my notes. I may have one or two at the                  23 end, but hopefully I'll be done. I'll pass the                  24 witness.                  25 EXAMINATION</p>	<p style="text-align: right;">Page 109</p> <p>1 Q So you found a range?                  2 A Again, I haven't tried to characterize                  3 it because those people aren't doing a stop clock                  4 to say how long does it take when I put on                  5 cosmetic talc. They're usually butt naked in a                  6 bathroom without a timer on when they're doing                  7 their application of powder, or they have their                  8 undergarments on.                  9 There have been varying descriptions.                  10 I don't know if I would characterize it as a                  11 range. It all depends also on how they're                  12 applying it, if they're pouring it into their                  13 hands and applying it to their body or they're                  14 using a powder puff and they find it a meditative                  15 process, in which case it would take much longer.                  16 So I think everyone applies powder somewhat                  17 differently.                  18 Q So would you say that a five-minute                  19 application would be on the high end of what you                  20 have seen in the course of this litigation?                  21 A Again, it depends on how they're                  22 applying it. But five -- for the powder puff, I                  23 think if they're using a powder puff, I think                  24 that's about what people have described. Again,                  25 if they're putting -- using a powder puff on</p>

<p style="text-align: right;">Page 110</p> <p>1 their full body and it's something that they do                  2 as part of their routine to help them set their                  3 day, that would be about what they -- what's been                  4 described.                  5 Q Now, have you also seen in the course                  6 of this litigation that when asbestos or asbestos                  7 fragments or cleavage fragments have been found                  8 in talc, cosmetic talc, that it's been found in                  9 trace -- what's called trace amounts?                  10 MS. KAGAN: Objection. Argumentative                  11 as to cleavage fragment. Vague.                  12 Mischaracterizes.                  13 THE WITNESS: I'm not quite sure what                  14 you mean by trace amounts. They -- when they                  15 describe the asbestos fibers that have been                  16 found, they will often describe that they found X                  17 number when they're doing a sample for grams. It                  18 could be hundreds of thousands or millions of                  19 fibers.                  20 And then when they're doing air                  21 measurements, it's levels that are orders of                  22 magnitude above background.                  23 If you're asking by weight, then it's                  24 less than one percent by weight typically. But                  25 that still represents millions and billions of</p>	<p style="text-align: right;">Page 112</p> <p>1 correct, that would be a comparison, yes.                  2 But if it's -- I mean, if you're                  3 asking me is one number more than the other, yes.                  4 BY MR. POLCHINSKI:                  5 Q Doctor, in the course of your                  6 involvement in asbestos litigation, you have                  7 reviewed the report of Dr. Iwatsubo in the French                  8 mesothelioma study?                  9 A Yes.                  10 Q That was from 1998?                  11 A I believe so.                  12 Q Dr. Iwatsubo in that report indicated                  13 that 0.5 fibers per cc-years, anything less than                  14 that was not significant in causing mesothelioma?                  15 MS. KAGAN: Mischaracterizes.                  16 THE WITNESS: I don't have the paper                  17 in front of me, and I don't recall the specific                  18 numbers from that particular paper. I do know                  19 that there have been additional papers published                  20 since then that have lower values of .1 fiber per                  21 cc-year that have been associated with a fourfold                  22 increase of mesothelioma.                  23 I don't know if I talked about                  24 Dr. Iwatsubo in my declaration. I think I did.                  25 If you give me one second, I can refer to what I</p>
<p style="text-align: right;">Page 111</p> <p>1 fibers.                  2 So a long-winded answer to in some                  3 ways of it being described as trace meaning it's                  4 less than one percent, yes, in a bulk sample.                  5 BY MR. POLCHINSKI:                  6 Q And have you seen trace amounts of                  7 1/1,000th?                  8 A In terms of a bulk weight --                  9 Q Yes.                  10 A -- bulk percentage? Yes.                  11 Q So if you were to compare that to an                  12 asbestos-containing product that had 30 percent                  13 asbestos, that would be 300 parts per 1,000;                  14 correct?                  15 MS. KAGAN: Argument.                  16 Mischaracterizes.                  17 THE WITNESS: Well, it depends on --                  18 it's not necessarily -- it depends. If you're                  19 talking about an asbestos product that's bound up                  20 with cellulose and other things and 30 percent of                  21 the product is asbestos, that's one thing.                  22 If you're talking about a product                  23 that's friable and is meant to become airborne                  24 and aerosolize as talcum powders were, if you're                  25 looking at .001 and 30, if your numbers are</p>	<p style="text-align: right;">Page 113</p> <p>1 said in my declaration there, which is --                  2 BY MR. POLCHINSKI:                  3 Q Sure.                  4 A Let me just grab it if that's what                  5 you're referring to. But I don't have the actual                  6 paper in the room with me. It said -- that was                  7 his -- I think that was his lowest -- it's in the                  8 footnote. I think that he gave a relative -- an                  9 odds ratio of 4.2 for .5 to .99 fiber per                  10 cc-years. I don't recall what he had for below                  11 that.                  12 But the Rodelsperger and the Lacourt                  13 had values that were at a lower rate than he did.                  14 Q And Dr. Lacourt had a 0.1 fiber                  15 cc-years quadrupling the nonoccupational risk of                  16 developing mesothelioma?                  17 MS. KAGAN: I'm sorry. Can you reask                  18 that question?                  19 BY MR. POLCHINSKI:                  20 Q Would you like me to repeat that?                  21 MS. KAGAN: I didn't hear your                  22 question. Can you please repeat the question?                  23 MR. POLCHINSKI: Sure.                  24 BY MR. POLCHINSKI:                  25 Q Dr. Lacourt had the value of 0.1 fiber</p>

<p style="text-align: right;">Page 114</p> <p>1 cc-years quadrupling the nonoccupational risk of                  2 developing mesothelioma. Do I have that correct?                  3 MS. KAGAN: Mischaracterizes.                  4 THE WITNESS: Lacourt, as I referenced                  5 here, had an odds ratio of almost 24 for values                  6 of greater than .1 fiber per cc-years. In others                  7 I think at a lower level it was fourfold                  8 increase.                  9 BY MR. POLCHINSKI:                  10 Q Now, is there an exposure level,                  11 Doctor, that you rely on in calculating exposure                  12 from a person applying cosmetic talc?                  13 MS. KAGAN: Vague.                  14 THE WITNESS: I'm sorry. Can you --                  15 I'm not quite -- I don't follow your question.                  16 Could you rephrase it?                  17 BY MR. POLCHINSKI:                  18 Q Sure. Is there an exposure level in                  19 fibers per cc that you have relied upon in                  20 determining how much exposure exists when a                  21 person is applying cosmetic talc?                  22 MS. KAGAN: Asked and answered by                  23 Julia Romano five minutes ago.                  24 MR. POLCHINSKI: Well, we didn't have                  25 a number.</p>	<p style="text-align: right;">Page 116</p> <p>1 A Okay.                  2 Q All right? Now, to add to that, what                  3 we're talking about here, I'm going to submit to                  4 you Dr. Longo did some examinations of Jean Nate                  5 powder. He looked at five tins, and in three of                  6 those tins he found cleavage fragments.                  7 MS. KAGAN: Mischaracterizes.                  8 Foundation. Argument.                  9 BY MR. POLCHINSKI:                  10 Q Are you with me so far?                  11 MS. KAGAN: Incomplete hypothetical.                  12 Mischaracterizes. If you're referring to a                  13 specific document, you should tell her. But                  14 you're also not accurately describing the                  15 document. The hypothetical is incomplete.                  16 MR. POLCHINSKI: I'm not finished yet.                  17 THE WITNESS: I don't recall that he                  18 only described cleavage fragments.                  19 BY MR. POLCHINSKI:                  20 Q If we just say three out of five                  21 tins -- let's just leave it at that -- three out                  22 of five would be 60 percent of what he examined.                  23 Would that be accurate?                  24 MS. KAGAN: Mischaracterizes. He                  25 found asbestos in four out of five. I don't know</p>
<p style="text-align: right;">Page 115</p> <p>1 THE WITNESS: I don't think I've ever                  2 given a specific number with respect to that.                  3 I've been asked whether I felt there was                  4 exposures that were above background. I've done                  5 characterizations based on the published data                  6 from where background is to where exposures are                  7 related to cosmetic talc. But it's a range.                  8 Every exposure is going to be different.                  9 BY MR. POLCHINSKI:                  10 Q Now, Dr. Moline, on page ten of your                  11 notes, you had a calculation of the number of                  12 applications with respect to the Jean Nate                  13 product?                  14 A Correct.                  15 Q And that was 3,016 applications?                  16 A Correct.                  17 Q And if we were to use five minutes for                  18 each application, that would give us                  19 15,080 minutes of exposure lifetime. Can you                  20 rely on my math?                  21 A Yes.                  22 MS. KAGAN: Foundation.                  23 BY MR. POLCHINSKI:                  24 Q Now, if we were to divide that 15,080                  25 by 60 minutes, we would come up with 251 hours?</p>	<p style="text-align: right;">Page 117</p> <p>1 why you're saying three out of five.                  2 MR. POLCHINSKI: That's what my                  3 information said.                  4 MS. KAGAN: I don't know if you know                  5 the difference between PLM and TEM, but he found                  6 asbestos in one of the containers by PLM only and                  7 then by TEM in three of them. So you should read                  8 his declaration, read the reports, and then ask                  9 your questions. Otherwise, you're asking a                  10 hypothetical that's not based in fact and it                  11 makes no sense.                  12 BY MR. POLCHINSKI:                  13 Q If we go with my three out of five,                  14 60 percent, Doctor, of 251 would be roughly                  15 150 hours?                  16 MS. KAGAN: That's not accurate.                  17 We're not going with your three out of five                  18 because it's not based in fact. You're asking a                  19 hypothetical based on not the facts in this case.                  20 MR. POLCHINSKI: Counsel, would it                  21 satisfy you if I did four out of five instead of                  22 three out of five?                  23 MS. KAGAN: It would be factually                  24 accurate to use four out of five as opposed to                  25 three out of five, yes.</p>

<p style="text-align: right;">Page 118</p> <p>1 BY MR. POLCHINSKI:                  2 Q All right. Well, let's do that then.                  3 Let's take -- 250 hours times 80 percent is                  4 200 hours.                  5 MS. KAGAN: Vague and                  6 incomprehensible.                  7 BY MR. POLCHINSKI:                  8 Q All right?                  9 A Okay.                  10 Q Now, if a person was exposed let's say                  11 on a job to 0.1 fibers cc for 2,000 hours, a full                  12 work year, at the end of that year, the person                  13 would have had 0.1 fiber cc-years; correct?                  14 MS. KAGAN: Mischaracterizes.                  15 Foundation.                  16 THE WITNESS: So I lost you there. So                  17 2,000 work hours in the year.                  18 BY MR. POLCHINSKI:                  19 Q Right.                  20 A Ask the question again.                  21 Q If a person works in that environment,                  22 0.1 fibers per cc, for a full year, 2,000 hours,                  23 at the end of that year, that person will have                  24 0.1 fiber cc-years. Is that basically correct?                  25 A You're talking occupational standards</p>	<p style="text-align: right;">Page 120</p> <p>1 along this.                  2 But we're also discounting the fact                  3 that you don't leave that -- a workplace is a                  4 place you typically don't live in, and it's not                  5 necessarily applicable. It's been used as                  6 estimates to try to give some sort of                  7 quantification, but it's a little more                  8 complicated than this.                  9 But anyways, go ahead with whatever                  10 you're doing. I don't like doing math on the                  11 fly, as anyone who's read my depositions has                  12 known.                  13 BY MR. POLCHINSKI:                  14 Q Especially over the phone.                  15 A Well, phone or -- I mean, I'm not                  16 sitting with a calculator. I like to do things                  17 methodically. If you look at page ten of my                  18 notes, I was very methodical, and I actually                  19 confirmed the numbers.                  20 So we're not isolating out one product                  21 versus another since they all contribute, and                  22 that was in her cumulative exposure. But anyway,                  23 I'm happy to continue answering your questions.                  24 Q Just with respect to 200 hours, 0.1                  25 would result in 0.01 fiber per cc-years. Would</p>
<p style="text-align: right;">Page 119</p> <p>1 now? Yes.                  2 Q Yes.                  3 A If someone has .1 fiber per cc for                  4 2,000 hours, that's one fiber per cc-year for                  5 their occupational time-weighted average.                  6 Q So if a person had 200 hours instead                  7 of 2,000, that's one-tenth of a work year;                  8 correct?                  9 MS. KAGAN: Mischaracterizes and                  10 foundation as to the 200 hours.                  11 Incomprehensible. Incomplete hypothetical.                  12 THE WITNESS: Using your numbers, then                  13 yes, that would be one-tenth of a work year.                  14 BY MR. POLCHINSKI:                  15 Q Now, if a person had 200 hours at 0.1                  16 fibers per cc, at the end of that period of time,                  17 the 200 hours, their lifetime exposure from what                  18 we're talking about would be 0.01 fiber cc-years.                  19 Would that be accurate?                  20 MS. KAGAN: Mischaracterizes.                  21 Foundation. Incomplete hypothetical.                  22 THE WITNESS: I mean, your math is                  23 correct, but you can't take the 80 percent value.                  24 You have to take the fact that she had the full                  25 250 hours of exposure. I'm losing you somewhere</p>	<p style="text-align: right;">Page 121</p> <p>1 that be accurate?                  2 MS. KAGAN: Mischaracterizes.                  3 Foundation. Incomplete hypothetical.                  4 THE WITNESS: Using the numbers that                  5 you have stated, that's what the math would work                  6 out to, yes.                  7 BY MR. POLCHINSKI:                  8 Q And if a person were -- if that were                  9 their lifetime exposure to a particular product,                  10 that would be less exposure than both                  11 Dr. Iwatsubo and Dr. Lacourt calculated as sort                  12 of a threshold for substantial exposure. Would                  13 that be fair to say?                  14 A No. They didn't describe that. They                  15 didn't have a threshold for substantial exposure.                  16 Lacourt went lower and actually had values that                  17 were below those numbers. You can't do it in                  18 simple isolation because there were additional                  19 exposures.                  20 All of these exposures would increase                  21 the risk from the many years of the application                  22 of a particular product, so it's not like you can                  23 just say, well, the exposure was below this                  24 number, there was no risk when the exposures are                  25 above background.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q But you will admit, Doctor, that each  2 product has to be looked at individually?  3 MS. KAGAN: Mischaracterizes. Looked  4 at individually for what?  5 MR. POLCHINSKI: Looked at for the --  6 MS. KAGAN: Counsel, I don't know what  7 jurisdiction you think you're in. I don't know  8 if you're licensed in California. But Rutherford  9 does not require a dose calculation for each  10 individual exposure and it doubling their risk.  11 I think you're thinking of the  12 Borg-Warner case in Texas, and I think you're a  13 bit confused here. So I'm not sure what you're  14 asking.  15 MR. POLCHINSKI: I assure you I'm not  16 confused, Counsel, but I am asking questions of  17 the doctor. And I'm drawing objections. I  18 understand that.  19 MS. KAGAN: You're asking questions  20 about taking an individual product into  21 consideration for exposure purposes which  22 Dr. Moline has already done for you twice. But  23 now you're asking a different question which is  24 not in compliance with the law in California.  25 It is not required by Rutherford or --</p>	<p style="text-align: right;">Page 124</p> <p>1 familiar with the Unarco plant in Bloomington,  2 Illinois?  3 A Familiar I think would be -- I don't  4 know what you mean by familiar. Am I aware that  5 there was a Unarco plant in Bloomington,  6 Illinois? Yes.  7 Q Have you received any photographs of  8 the Unarco plant, interior photographs of that  9 plant?  10 A Not that I specifically recall.  11 Q You indicated also that Dr. Selikoff  12 did some research into exposures at the Unarco  13 plant in New Jersey; correct?  14 A My recollection is that Selikoff  15 evaluated folks who had worked at the Unarco  16 plant in New Jersey, not the Bloomington plant,  17 in the 1950s. He didn't do exposure assessments  18 that I recall seeing, but I know that he was  19 describing the clinical findings from those  20 folks.  21 Q Did you ever see a writing from  22 Dr. Selikoff that indicated that the interior of  23 the Unarco plant that he studied had roughly 50  24 fibers per cc?  25 MS. KAGAN: Mischaracterizes.</p>
<p style="text-align: right;">Page 123</p> <p>1 I am not sure what exactly you think you're  2 asking or what jurisdiction you practice in, but  3 it's clearly not California.  4 BY MR. POLCHINSKI:  5 Q The question really goes to -- my  6 particular product is not -- my client is not  7 responsible for everyone else's exposures. Would  8 that be fair to say?  9 MS. KAGAN: Mischaracterizes.  10 Argument. I don't know what you mean by  11 responsible. You mean legally responsible?  12 Again, joint and several liability exists because  13 your client's product contributes to the disease  14 and you are jointly severable for that  15 contribution.  16 MR. POLCHINSKI: No. I'm just talking  17 about causation.  18 MS. KAGAN: Right. And she's already  19 testified that all these exposures contribute  20 that are above background. I'm not sure, again,  21 what you're trying to parse out here, but it's  22 not the law in California. You're just wasting  23 time.  24 BY MR. POLCHINSKI:  25 Q Dr. Moline, you've indicated you're</p>	<p style="text-align: right;">Page 125</p> <p>1 Foundation.  2 THE WITNESS: I don't recall that  3 specific number from the New Jersey plant. I  4 don't recall the publication. I probably read  5 it, but I have no recollection of the specific  6 number.  7 And that would have -- and, also, I'm  8 not sure how the two plants compare and also what  9 Mr. Martin was actually doing in Bloomington.  10 Ms. Fowler testified that she recalled that he  11 worked with metal. And when I looked at his  12 salary, he was making a rate that was associated  13 with the machinists' or other skilled trades'  14 rates because it was more than \$2 an hour, which  15 was quite interesting.  16 And that made sense based on what  17 Ms. Fowler had described, that he worked with  18 metal, which is what machinists tend to do,  19 rather than working with the insulation itself.  20 Q In your calculation on page ten of  21 your notes, you indicate 2,607 possible  22 interactions by the Plaintiff with her stepfather  23 regarding the Unarco exposure?  24 A Right. That was based on the fact  25 that she lived in the same house with him for ten</p>

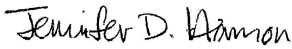


<p style="text-align: right;">Page 126</p> <p>1 years. And there are five workdays in a week, so  2 that's how I came up with that calculation.  3 Q How many minutes per interaction did  4 you calculate?  5 A I didn't. And based on the testimony  6 from Ms. Zimmerman and Ms. Fowler, Ms. Zimmerman  7 tried to stay away from her stepfather as much as  8 possible and was not in the house. It sounded  9 like there was -- she described it as very  10 minimal interaction.  11 And then she was away at college, and  12 then she would go from class to working. I think  13 her sister described quite poignantly that she  14 would make her an egg or a grilled cheese  15 sandwich because she hadn't had anything to eat  16 by the time she came home at the end of the  17 evening.  18 Her sister would wake up and make her  19 a sandwich because she'd been out of the house  20 all day. So she didn't have a lot of interaction  21 with the stepfather.  22 Q How was it that you calculated the  23 2,607 interactions?  24 A I said that she would interact with  25 him once a day for ten years, five days a week,</p>	<p style="text-align: right;">Page 128</p> <p>1 MS. KAGAN: Argument as to "somehow  2 infiltrated the house."  3 THE WITNESS: I don't know how  4 Mr. Martin's exposure managed to contaminate the  5 house. There was also some description of them  6 riding in a car to go to church. Perhaps it was  7 in the car on the rare occasion she was actually  8 in the car with him. I have no way of knowing.  9 BY MR. POLCHINSKI:  10 Q When Dr. Gordon found amosite and  11 crocidolite in Ms. Zimmerman's tumor, was that  12 the only asbestos types that he found in the  13 tumor?  14 A Within the tumor tissue, those were  15 the only two types that he found, that's correct,  16 in the piece of the tumor he had, yes, not in the  17 lymph nodes.  18 Q Based upon the facts that we have  19 before us with the three different types of  20 exposure that have been discussed here, is it  21 more likely than not in your opinion that the  22 amosite and crocidolite in the tumor tissue came  23 from the Unarco plant?  24 MS. KAGAN: Mischaracterizes.  25 Argument. Asked and answered by counsel for</p>
<p style="text-align: right;">Page 127</p> <p>1 five out of seven days a week, meaning it was  2 261 days in a year because he worked 261 days,  3 that's not assuming he took any vacations, and  4 were at the same house for ten years.  5 Q From your review of this case, the  6 stepfather removed his work clothes in the  7 basement?  8 A That's what Ms. Fowler described.  9 Q So if the Plaintiff, Linda Zimmerman,  10 had occasion to go to the basement, be fair to  11 say that it was likely that there was asbestos in  12 the air in the basement?  13 MS. KAGAN: Mischaracterizes.  14 Foundation. Calls for speculation.  15 THE WITNESS: I have no way of  16 knowing. It depends on if she would be in there.  17 It's possible there could have been. I don't  18 recall her describing going into the basement. I  19 don't recall any testimony to that effect at all.  20 What I gleaned is she tried to stay away from her  21 stepfather as much as possible.  22 BY MR. POLCHINSKI:  23 Q Is it your belief that some of the  24 asbestos from the father's clothes somehow  25 infiltrated the house beyond the basement?</p>	<p style="text-align: right;">Page 129</p> <p>1 Chanel at the beginning of this deposition and by  2 Ms. Romano with respect to the amosite.  3 THE WITNESS: I have no way of knowing  4 the source of any of these particular fibers. As  5 I said before, the amosite, which is the  6 commercial term for cummingtonite, could have  7 come from cosmetic talc. That's been described  8 before. I have no way of knowing.  9 I do know that there was talc that was  10 found and that there was also  11 tremolite-anthophyllite in the lymph nodes  12 consistent with talc.  13 BY MR. POLCHINSKI:  14 Q You've already indicated that it is  15 your belief that the Unarco plant used amosite  16 asbestos and to a lesser degree crocidolite  17 asbestos?  18 MS. KAGAN: Asked and answered.  19 THE WITNESS: Correct.  20 BY MR. POLCHINSKI:  21 Q I didn't hear the answer.  22 A Correct.  23 MS. KAGAN: The question was asked and  24 answered. I don't know why you're re-covering  25 questions that have already been asked by prior</p>

<p style="text-align: right;">Page 130</p> <p>1 counsel.</p> <p>2 MR. POLCHINSKI: Dr. Moline, that's</p> <p>3 all I have for you this afternoon. Thank you</p> <p>4 very much.</p> <p>5 THE WITNESS: You're welcome.</p> <p>6 EXAMINATION</p> <p>7 BY MS. ANDERSON-THOMPSON:</p> <p>8 Q Good afternoon, Dr. Moline. This is</p> <p>9 Gabrielle Anderson-Thompson. I just have a</p> <p>10 couple questions for you.</p> <p>11 A Sure.</p> <p>12 Q You don't have any opinions regarding</p> <p>13 a retailer's standard of care; correct?</p> <p>14 A Correct.</p> <p>15 Q And you don't have any expert opinions</p> <p>16 specific to the retailer Ralphs Grocery Company.</p> <p>17 True?</p> <p>18 A Correct.</p> <p>19 Q And you don't have any expert opinions</p> <p>20 specific to the retailer Thrifty Payless Inc.</p> <p>21 True?</p> <p>22 A Correct.</p> <p>23 MS. ANDERSON-THOMPSON: Okay. I don't</p> <p>24 have any other questions. Thank you.</p> <p>25 THE WITNESS: You're welcome.</p>	<p style="text-align: right;">Page 132</p> <p>1 disease; correct?</p> <p>2 A Correct.</p> <p>3 Q And then do you recall giving a</p> <p>4 deposition in the Ripley matter?</p> <p>5 A Believe it or not, I don't. I</p> <p>6 remember the name because it allowed me to do</p> <p>7 that at the time because it's corny and I</p> <p>8 appreciate that humor. I recall that I was</p> <p>9 deposed in the Ripley case. I don't remember</p> <p>10 what I said.</p> <p>11 Q I noticed on your reliance list the</p> <p>12 specific testing from Dr. Longo and Dr. Compton</p> <p>13 as to Chanel No. 5. And you had all of those</p> <p>14 tests at the time of the Ripley deposition. You</p> <p>15 were asked about your opinions as to that</p> <p>16 testing, and I just wanted to make sure that you</p> <p>17 hadn't reached any new opinions based on that</p> <p>18 testing since the Ripley deposition.</p> <p>19 Does that make sense?</p> <p>20 A With respect to Dr. Longo's testing of</p> <p>21 the Chanel, I don't recall having any -- I don't</p> <p>22 have any new opinions related to that. I haven't</p> <p>23 seen any additional testing.</p> <p>24 Q And do you have any new opinions about</p> <p>25 Chanel based on Dr. Compton's testing which you</p>
<p style="text-align: right;">Page 131</p> <p>1 MS. KAGAN: Anybody else?</p> <p>2 MS. ROMANO: This is Julia. I have</p> <p>3 maybe three more questions that I found that I</p> <p>4 hadn't asked. But go ahead, Meghan.</p> <p>5 MS. SENTER: It's the same for me. I</p> <p>6 just had a couple follow-ups. I'll ask mine real</p> <p>7 quick.</p> <p>8 RE-EXAMINATION</p> <p>9 BY MS. SENTER:</p> <p>10 Q Dr. Moline, when you were asked some</p> <p>11 questions by Julia earlier, she asked some</p> <p>12 questions specific to J&amp;J, and I want to make</p> <p>13 sure they just kind of apply across the board. I</p> <p>14 think they do.</p> <p>15 MS. KAGAN: Could you reask your</p> <p>16 question? Sorry. I couldn't hear because I was</p> <p>17 coughing.</p> <p>18 BY MS. SENTER:</p> <p>19 Q I just wanted to confirm. Some of the</p> <p>20 questions that were asked by Julia earlier were</p> <p>21 specific to J&amp;J, and I just want to make sure</p> <p>22 that they apply across the board.</p> <p>23 If the Chanel product used by</p> <p>24 Ms. Zimmerman did not contain asbestos, you would</p> <p>25 agree that it did not cause or contribute to her</p>	<p style="text-align: right;">Page 133</p> <p>1 also had at the time of the Ripley deposition?</p> <p>2 A Not that I'm aware of as I sit here</p> <p>3 right now.</p> <p>4 MS. SENTER: I thought we could</p> <p>5 short-circuit that. The only the other things,</p> <p>6 we can ask this off the record, Leah, I'll ask</p> <p>7 afterwards.</p> <p>8 RE-EXAMINATION</p> <p>9 BY MS. ROMANO:</p> <p>10 Q Dr. Moline, just a few more questions.</p> <p>11 You would agree that Ms. Zimmerman's stepfather's</p> <p>12 work at Unarco is certainly a possible source of</p> <p>13 the amosite and crocidolite found by Dr. Gordon</p> <p>14 in Ms. Zimmerman's tissue. True?</p> <p>15 A Yes.</p> <p>16 Q You also reviewed Ms. Zimmerman's</p> <p>17 medical records, obviously not the most recent,</p> <p>18 but I think up until two thousand -- I think you</p> <p>19 said her medical records up to October of 2019,</p> <p>20 thereabouts?</p> <p>21 A Yeah. There was a pulmonology report</p> <p>22 that I recall from October 8th.</p> <p>23 Q And in your review of Ms. Zimmerman's</p> <p>24 medical records, did you see the notation noting</p> <p>25 that her stepdad's work at an asbestos plant was</p>

<p style="text-align: right;">Page 134</p> <p>1 a possible source of asbestos exposure for  2 Ms. Zimmerman? Did you see those statements?  3 A Yes.  4 MS. KAGAN: Foundation.  5 BY MS. ROMANO:  6 Q Did you see any reference in  7 Ms. Zimmerman's medical records to cosmetic talc  8 or specifically Johnson's baby powder being a  9 possible source of asbestos exposure to  10 Ms. Zimmerman?  11 A No.  12 Q Did you see any reference in  13 Ms. Zimmerman's medical records to cosmetic talc  14 or specifically Johnson's baby powder as being a  15 possible cause of her mesothelioma?  16 A Not within her medical records, no.  17 Q Have we now discussed all the  18 testimony that you anticipate providing at trial  19 in this matter at least in a general sense?  20 A With the exception of whether I would  21 comment on future medical and her additional  22 medical since October, yes.  23 MS. ROMANO: Great.  24 MS. KAGAN: Obviously, I'd tender  25 whatever we disclosed in our 2034 disclosure as</p>	<p style="text-align: right;">Page 136</p> <p>1 MS. KAGAN: I asked if there have been  2 epidemiologic studies of individuals who have  3 been exposed to asbestos.  4 MS. SENTER: Okay. Sorry.  5 THE WITNESS: Yes.  6 BY MS. KAGAN:  7 Q And, Dr. Moline, do you need a  8 specific epidemiological study for every single  9 type of product that contains asbestos that  10 people would be exposed to in order to offer an  11 opinion that exposure to asbestos causes  12 mesothelioma?  13 A No.  14 Q Have there also been instances  15 documented in the peer-reviewed literature of --  16 individuals with mesothelioma associated with --  17 who have had associations with use of cosmetic  18 talc or exposure to cosmetic talc?  19 A Yes.  20 Q And those references on your reference  21 and reliance list, you've testified about those  22 in trial before?  23 A I have. And, yes, they are on my  24 list.  25 Q Dr. Moline, why didn't you calculate a</p>
<p style="text-align: right;">Page 135</p> <p>1 well as what's on her reference and reliance  2 list, and the materials we produced prior to this  3 deposition would all be fair game and appropriate  4 for questioning at trial.  5 Anybody else have any questions?  6 EXAMINATION  7 BY MS. KAGAN:  8 Q I have a couple of follow-up  9 questions. First, Dr. Moline, I wanted to touch  10 upon the epidemiology questions that counsel for  11 Johnson &amp; Johnson asked you. She asked you  12 whether or not there have been epidemiologic  13 studies following the use of cosmetic talc  14 products that show an increased risk from use of  15 cosmetic talc. Do you remember those questions?  16 A Yes.  17 Q Now, what is it in cosmetic talc that  18 in your opinion is causing mesothelioma?  19 A Asbestos.  20 Q Have there been epidemiological  21 studies of individuals who have been exposed to  22 asbestos?  23 A Yes.  24 MS. SENTER: I'm sorry. Could I have  25 that question back? You cut out, Leah.</p>	<p style="text-align: right;">Page 137</p> <p>1 specific numeric dose for Ms. Zimmerman's  2 lifetime exposure?  3 A For her what exposure?  4 Q For her lifetime exposure to asbestos.  5 A You know, it's -- they're all  6 estimates. She didn't have actual measurements  7 done when she was doing it. We're not measuring  8 the full scope of when somebody applies powder  9 and then they have to clean it up, and I had no  10 way of being able to include that type of  11 exposure in a dose calculation.  12 I don't know what exactly she was  13 exposed to in the home where -- that she shared  14 with Mr. Martin or what contribution, if any, her  15 children's exposure made. So I just -- I wasn't  16 able to -- I had no number to do it.  17 So it's always an estimate. It's not  18 an actual exposure. So there were too many  19 variables for me to feel confident in the number.  20 So that was the main reason.  21 Q On your last page of your notes when  22 you quantified the number of exposures that  23 Ms. Zimmerman had to the various talcum powder  24 products and potentially from her stepfather from  25 Unarco, was this the most reliable quantification</p>

<p style="text-align: right;">Page 138</p> <p>1 that you could have provided in this case?</p> <p>2 A Yes. And that's an underestimate in</p> <p>3 many places because I don't address cleaning.</p> <p>4 And then when she talked about that she would</p> <p>5 shower sometimes more than once a day and apply</p> <p>6 powder once a day, I would err on the side of one</p> <p>7 rather than one and a half since it wasn't clear</p> <p>8 how often she actually showered more than once a</p> <p>9 day.</p> <p>10 But this was the best I could do</p> <p>11 understanding that it's probably undercounting</p> <p>12 based on how she described it.</p> <p>13 Q Dr. Moline, is there any way you could</p> <p>14 take out one of these exposures -- let's say you</p> <p>15 could just remove Jean Nate from this exposure</p> <p>16 profile from contributing to her total cumulative</p> <p>17 dose based on the number of her exposures?</p> <p>18 MR. POLCHINSKI: Objection. Form.</p> <p>19 THE WITNESS: They're all going to</p> <p>20 contribute. You can't just substitute -- take</p> <p>21 one out and say that it had no relevance or it</p> <p>22 wasn't a contributing factor. That's not</p> <p>23 scientifically sound.</p> <p>24 BY MS. KAGAN:</p> <p>25 Q Dr. Moline, counsel for Johnson &amp;</p>	<p style="text-align: right;">Page 140</p> <p>1 ensued.)</p> <p>2 MS. KAGAN: We can agree to relieve</p> <p>3 the court reporter of her obligation to maintain</p> <p>4 the original transcript under the Code.</p> <p>5 Plaintiff will take custody of the original</p> <p>6 transcript and make it available to anybody upon</p> <p>7 reasonable request.</p> <p>8 We also stipulate to using certified</p> <p>9 copies for motion practice and trial. If the</p> <p>10 original is lost, I propose we use certified</p> <p>11 copies in general for motion practice and in</p> <p>12 trial.</p> <p>13 Then I also propose that we could use</p> <p>14 an expedited rough if necessary for motion</p> <p>15 practice in light of the expedited trial date.</p> <p>16 MS. SENTER: So stipulated.</p> <p>17 (Proceedings adjourned, 1:42 p.m.)</p> <p>18 (Original transcript sent to Leah Kagan.)</p> <p>19 The following reporter and firm</p> <p>20 disclosures were presented at this proceeding for</p> <p>21 review by counsel:</p> <p>22 REPORTER DISCLOSURES</p> <p>23 The following representations and</p> <p>24 disclosures are made in compliance with Georgia</p> <p>25 Law, more specifically:</p> <p>Article 10(B) of the Rules and Regulations of the</p> <p>Board Of Court Reporting (disclosure forms)</p> <p>OCGA 9-11-28(c) (disqualification of reporter</p> <p>for financial interest)</p> <p>OCGA 15-14-37(a) and (b) (prohibitions against</p>
<p style="text-align: right;">Page 139</p> <p>1 Johnson asked you about your review of the</p> <p>2 medical records and whether or not you saw any</p> <p>3 notations about Ms. Zimmerman's exposure to</p> <p>4 asbestos from her use of cosmetic talc.</p> <p>5 In your experience as a medical doctor</p> <p>6 and in your review of medical records for</p> <p>7 hundreds and hundreds of patients, how often do</p> <p>8 physicians ask patients about their use of</p> <p>9 hygiene products like cosmetic talc?</p> <p>10 MS. ROMANO: Calls for speculation.</p> <p>11 Overbroad. Go ahead.</p> <p>12 THE WITNESS: Rarely, if ever.</p> <p>13 MS. KAGAN: Thank you, Dr. Moline.</p> <p>14 Those are all the questions I have.</p> <p>15 THE COURT REPORTER: Dr. Moline, would</p> <p>16 you like to waive signature?</p> <p>17 THE WITNESS: Yes, please.</p> <p>18 MS. KAGAN: Julia, can we do the usual</p> <p>19 stips? Can you put it on the record before I</p> <p>20 choke to death?</p> <p>21 MS. ROMANO: You're testing my memory.</p> <p>22 Meghan, do you have them in front of you? I</p> <p>23 think it's that we can relieve the court reporter</p> <p>24 of her duties.</p> <p>25 (Whereupon off-the-record discussions</p>	<p style="text-align: right;">Page 141</p> <p>1 contracts except on a case-by-case basis).</p> <p>2 - I am a certified reporter in the State of</p> <p>3 Georgia.</p> <p>4 - I am a subcontractor for Veritext Legal</p> <p>5 Solutions.</p> <p>6 - I have been assigned to make a complete and</p> <p>7 accurate record of these proceedings.</p> <p>8 - I have no relationship of interest in the</p> <p>9 matter on which I am about to report which</p> <p>10 would disqualify me from making a verbatim</p> <p>11 record or maintaining my obligation of</p> <p>12 impartiality in compliance with the Code of</p> <p>13 Professional Ethics.</p> <p>14 - I have no direct contract with any party in</p> <p>15 this action and my compensation is determined</p> <p>16 solely by the terms of my subcontractor</p> <p>17 agreement.</p> <p>18 FIRM DISCLOSURES</p> <p>19 - Veritext Legal Solutions was contacted to</p> <p>20 provide reporting services by the noticing or</p> <p>21 taking attorney in this matter.</p> <p>22 - There is no agreement in place that is</p> <p>23 prohibited by OCGA 15-14-37(a) and (b). Any</p> <p>24 case-specific discounts are automatically</p> <p>25 applied to all parties, at such time as any</p> <p>party receives a discount.</p> <p>2 - Transcripts: The transcript of this proceeding</p> <p>as produced will be a true, correct, and</p> <p>complete record of the colloquies, questions,</p> <p>and answers as submitted by the certified court</p> <p>reporter.</p> <p>- Exhibits: No changes will be made to the</p> <p>exhibits as submitted by the reporter,</p> <p>attorneys, or witnesses.</p> <p>3 - Password-Protected Access: Transcripts and</p> <p>exhibits relating to this proceeding will be</p> <p>uploaded to a password-protected repository, to</p> <p>which all ordering parties will have access.</p>

<p style="text-align: right;">Page 142</p> <p>1 CERTIFICATE</p> <p>2 STATE OF GEORGIA:</p> <p>3 COUNTY OF COBB:</p> <p>4 I hereby certify that the foregoing</p> <p>5 transcript was taken down, as stated in the</p> <p>6 caption, and the colloquies, questions and</p> <p>7 answers were reduced to typewriting under my</p> <p>8 direction; that the transcript is a true and</p> <p>9 correct record of the evidence given upon said</p> <p>10 proceeding.</p> <p>11 I further certify that I am not a</p> <p>12 relative or employee or attorney of any party,</p> <p>13 nor am I financially interested in the outcome of</p> <p>14 this action.</p> <p>15 I have no relationship of interest in</p> <p>16 this matter which would disqualify me from</p> <p>17 maintaining my obligation of impartiality in</p> <p>18 compliance with the Code of Professional Ethics.</p> <p>19 I have no direct contract with any party</p> <p>20 in this action and my compensation is based</p> <p>21 solely on the terms of my subcontractor</p> <p>22 agreement.</p> <p>23 Nothing in the arrangements made for</p> <p>24 this proceeding impacts my absolute commitment to</p> <p>25 serve all parties as an impartial officer of the</p>	
<p style="text-align: right;">Page 143</p> <p>1 court.</p> <p>2 This the 2nd day of March, 2020.</p> <p>3</p> <p>4</p> <p>5 </p> <p>6</p> <p>7 JENNIFER D. HAMON, CCR B-2287, RPR</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	



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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the



deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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